

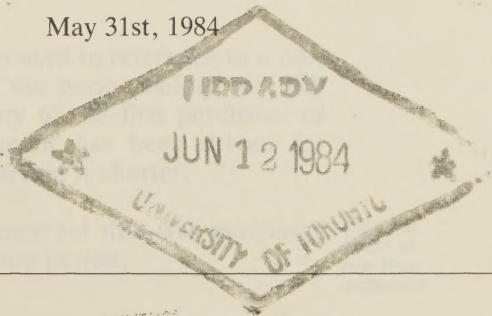
Digitized by the Internet Archive
in 2022 with funding from
University of Toronto

Bill 92

An Act to protect the
Purchasers of New Farm Implements

Mr. Boudria

1st Reading May 31st, 1984
2nd Reading
3rd Reading
Royal Assent



EXPLANATORY NOTE

The Bill would entitle the owner of a defective farm implement to obtain a refund of the purchase price during the warranty period (as defined) or, if the machine is less than two years old or has been driven for less than 800 hours, an equivalent farm implement in replacement. Where a defective farm implement is out of service for repairs during the warranty period for three days or more and the manufacturer or dealer fails to supply the owner with a replacement unit, the manufacturer or dealer is responsible for any crop losses that result.

Bill 92**1984**

**An Act to protect the
Purchasers of New Farm Implements**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpretation

- (a) “dealer” means a person who carries on the business of buying or selling farm implements, for his or her own or another person’s account, or who holds himself or herself out as carrying on that business;
- (b) “defect” means a defect that substantially impairs the usefulness, value or safety of a new farm implement;
- (c) “farm implement” means a tractor, combine or other self-propelled piece of machinery manufactured for farming purposes and as further determined by regulation;
- (d) “farming day” means a day in April, May, June, July, August, September or October;
- (e) “new farm implement” means a farm implement that has not, before delivery to the first purchaser, been driven for any purpose other than delivery to a dealer, inspection by prospective purchasers and servicing;
- (f) “warranty period”, when used in reference to a new farm implement, means the period before the fifth anniversary of its delivery to the first purchaser or before the farm implement has been driven for 1,500 hours, whichever period is shorter.

2.—(1) Where a new farm implement that was purchased from a dealer has, during its warranty period,

Rights of
owner of
new farm
implement

- (a) been the subject of four attempts to repair a defect, by the manufacturer, the dealer or a person authorized by either of them; or
- (b) been out of service for an aggregate period of,
 - (i) thirty farming days in any year, or
 - (ii) sixty farming days,

in the course of attempted repairs of a defect by the manufacturer, the dealer or a person authorized by either of them,

and the defect remains substantially uncorrected, the owner of the new farm implement is entitled to return it to the dealer and receive in return,

- (c) a full refund of the price actually paid by the owner for the new farm implement, including all collateral charges but excluding a reasonable allowance for the actual use of the farm implement; or
- (d) at the owner's option, if less than two years have elapsed since the delivery of the new farm implement to the first purchaser, or if it has been driven for less than 800 hours, another new farm implement of the same type and model and having the same optional features as the first new farm implement.

Replacement
where
implement
out of
service

(2) Where a new farm implement that was purchased from a dealer is, during its warranty period, out of service for three or more farming days in the course of attempted repairs of a defect by the manufacturer, the dealer or a person authorized by either of them, the manufacturer or dealer, as the case may be, shall supply the owner, free of charge, with a similar farm implement capable of performing the same tasks for the rest of the period that the owner's new farm implement is out of service.

Exception

(3) Subsections (1) and (2) do not apply where the defect is the result of abuse, neglect or unauthorized modifications to the new farm implement.

Idem

(4) The thirty and sixty farming day periods referred to in clause (1) (b) and the three farming day period referred to in subsection (2) do not include any period during which repairs cannot be performed for reasons beyond the control of the manufacturer or dealer, as the case may be.

3. Where a manufacturer or dealer is required to supply an owner with an alternate farm implement under subsection 2 (2) and does not do so, the owner may recover from the manufacturer or dealer, as the case may be, the amount of the owner's crop losses attributable to the failure to supply an alternate farm implement.

Liability
for crop
losses

4. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

5. The short title of this Act is the *New Farm Implement Buyers Protection Act, 1984*.

Short title

Bill 93

An Act respecting Public Libraries

The Hon. S. Fish

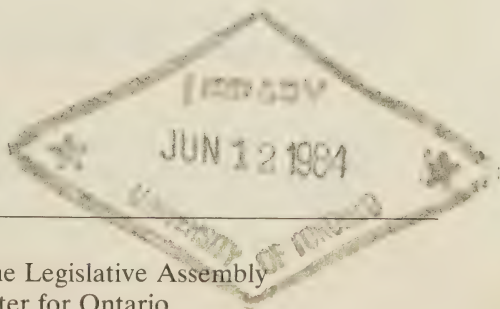
Minister of Citizenship and Culture

1st Reading June 4th, 1984

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTES

The Bill substantially revises the *Public Libraries Act*.

Some of the major changes are:

1. Public library boards, union boards (Part I of the existing Act), county library boards and county library co-operative boards (Part IV of the existing Act) are all dealt with in a new Part I in a manner that eliminates unnecessary duplication while preserving their different characteristics. Cities and separated towns may join county libraries.
2. The size of a board is flexible within a range that depends upon the type of board concerned. Members are appointed for terms concurrent with the term of the appointing council. Provision is made for school board representation on public library boards.
3. Board meetings are normally open to the public and public notice of board vacancies is required.
4. Recognition is given to French language library services and board proceedings.
5. Municipal and county councils, local service boards, Indian band councils and trustees of improvement districts may make library service agreements with existing boards, rather than establishing their own libraries.
6. The Ontario Provincial Library Council is abolished, and references to provincial certification of librarians are dropped.
7. Part III of the existing Act (Regional Library Service) is replaced by a new Part II, establishing a system of Ontario library service areas.
8. The Minister is authorized to establish special library service boards with special mandates, and the Metropolitan Toronto Library Board is deemed to be one of these.
9. The Minister is empowered to dissolve boards under certain circumstances.

Bill 93

1984

An Act respecting Public Libraries

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpretation

- (a) “board” in Part I means a public library board, a union board, a county library board or a county library co-operative board and in Part II means an Ontario library service board;
- (b) “Minister” means the Minister of Citizenship and Culture;
- (c) “municipality” means a city, town, village, township or improvement district;
- (d) “regulations” means the regulations made under this Act.

PART I

PUBLIC LIBRARY SERVICE

PUBLIC LIBRARY BOARDS

2. Every public library established under a predecessor of this Part that was being operated immediately before the day this Part comes into force is continued subject to this Part.

Public
libraries
continued

3.—(1) The council of a municipality and the trustees of an improvement district may by by-law establish a public library.

Establishment
of public
library

(2) When a by-law is passed under subsection (1), the clerk shall promptly mail or deliver a copy of the by-law to the Minister.

Copy of
by-law to
be sent to
Minister

Board

(3) A public library shall be under the management and control of a board, which is a corporation known as “The (*insert name of municipality*) Public Library Board”.

UNION BOARDS

Union
libraries
continued

4. Every union public library established under a predecessor of this Part that was being operated immediately before the day this Part comes into force is continued subject to this Part.

Establishment
of union
public
library

5.—(1) The councils of two or more municipalities may make an agreement for the establishment of a union public library.

Agreement

(2) An agreement under subsection (1) shall specify what proportion of the cost of the establishment, operation and maintenance of the union public library, including the cost of existing libraries, shall be paid by each municipality.

Union board

(3) A union public library shall be under the management and control of a union board, which is a corporation known as “The (*insert appropriate name*) Union Public Library Board”.

Dissolution
of boards
included
in union

(4) When an agreement is made under subsection (1), the public library boards established in the municipalities for which the union board is established are thereby dissolved, and the assets and liabilities of those boards are vested in and assumed by the union board, unless the agreement provides otherwise.

Copy of
agreement
to be sent
to Minister

(5) When an agreement is made under subsection (1), the clerk of the municipality that has the greatest population shall promptly mail or deliver a copy of the agreement to the Minister.

COUNTY LIBRARY BOARDS

County
libraries
continued

6. Every county library established under a predecessor of this Part that was being operated immediately before the day this Part comes into force is continued subject to this Part.

County
library
establishment

7.—(1) Where resolutions of the councils of at least two-thirds of the municipalities forming part of a county for municipal purposes request that the county establish a county library, the council of the county may by by-law establish a county library for those municipalities.

(2) When a by-law is passed under subsection (1), the clerk shall promptly mail or deliver a copy of the by-law to the Minister.

Copy of by-law to be sent to Minister

(3) At any time after a county library is established, the council of a non-participating municipality, city or separated town and the county council may make an agreement bringing the non-participating municipality, city or separated town into the county library, and the county council shall amend the establishing by-law accordingly.

Additional members: agreements

(4) An agreement made under subsection (3) shall specify what proportion of the cost of the establishment, operation and maintenance of the county library shall be paid by the county and the city or separated town respectively.

Contents of agreement

(5) When a county library is established, every public library board and county library co-operative established for a municipality or any part thereof that is included in the area for which the county library is established is dissolved, and the assets and liabilities of the boards are vested in and assumed by the county library board unless the by-law establishing the county library provides otherwise.

Dissolution of public library boards, etc.

(6) When a municipality joins a county library, subsection (5) applies with necessary modifications.

Idem

(7) A county library shall be under the management and control of a board, which is a corporation known as “The *(insert name of county)* County Library Board”.

County library board

COUNTY LIBRARY CO-OPERATIVE BOARDS

8.—(1) Every county library co-operative board established under a predecessor of this Act that was in existence immediately before the day this Part comes into force is continued subject to this Part.

County library co-operatives continued

(2) Where a county library co-operative has jurisdiction in an area for which a county library is established, the county library co-operative is dissolved, and its assets and liabilities are vested in and assumed by the county library board.

When dissolved

GENERAL

9.—(1) A public library board shall be composed of at least five and no more than nine members appointed by the municipal council.

Composition of public library board

School board
representation
on public
library board

(2) In the case of a public library board for a municipality whose population is 10,000 or more, school boards with jurisdiction in the municipality shall be represented on the public library board in the following manner:

1. Two of the members of the public library board shall be persons recommended by the board of education and one member shall be a person recommended by the separate school board, if any, unless paragraph 2 applies.
2. If separate school electors are a majority of electors in the municipality, two of the members of the public library board shall be persons recommended by the separate school board and one member shall be a person recommended by the board of education.
3. If there is more than one board of education or more than one separate school board, in each case the board that is supported by the largest number of electors of the municipality shall make the recommendation or recommendations.

Composition
of union
board

(3) A union board shall be composed of at least five and no more than fifteen members appointed by the councils of the affected municipalities in the proportions and in the manner specified in the agreement made under subsection 5 (1).

Idem:
county
library
board

(4) A county library board shall be composed of at least nine and no more than fifteen members appointed by the county council.

City or
separated
town:
appointments
to county
library
board

(5) When a city or separated town joins a county library, the members of the county library board shall be appointed by the county council and the council of the city or separated town in the proportions agreed upon by the county council and the council of the city or separated town.

Idem:
county
library
co-operative
board

(6) The board of a county library co-operative shall be composed of at least nine and no more than fifteen members appointed by the county council.

Qualifica-
tions of
board
members

10.—(1) A person is qualified to be appointed as a member of a board who is a member of the appointing council or,

- (a) is at least eighteen years old;
- (b) is a Canadian citizen;
- (c) is,

- (i) in the case of a public library board, a resident of the municipality for which the board is established, or is a resident of a municipality or of the board area of a local service board or a member of an Indian band that has a contract with the board under section 29,
- (ii) in the case of a union board, a resident of one of the affected municipalities, or
- (iii) in the case of a county library board or county library co-operative board, a resident of the county; and

(d) is not employed by the board or by the municipality or county or, in the case of a union board, by any of the affected municipalities.

(2) The appointing council shall not appoint more of its own members to a board than the number that is,

Number of
council
members
on board
limited

(a) in the case of a public library board or union board, one less than a majority of the board; and

(b) in the case of a county library or a county co-operative library, a bare majority of the board.

(3) A board member shall hold office for a term concurrent with the term of the appointing council, or until a successor is appointed, and may be reappointed for one or more further terms.

Term

(4) The first appointments of members of a new board shall be made at a regular meeting of council and the member shall take office as soon as possible thereafter, and thereafter appointments shall be made at the first meeting of council in each term, but if the council fails to make the appointments at its first meeting, it shall do so at its next regular meeting.

Time for
making
appointments

11.—(1) The clerk of the appointing municipality or county or, in the case of a union board, the clerks of the affected municipalities shall give public notice of vacancies on the board by publishing a notice of them, inviting applications, in a newspaper of general circulation in the municipality.

Notice
of vacancies

(2) The notice referred to in subsection (1) shall be in English or in both English and French, as may be appropriate.

Idem

Idem

(3) In the case of a public library board, where a vacancy on the board requires the appointment of a person recommended by the public school board, board of education or separate school board that has jurisdiction in the municipality, the notice referred to in subsection (1) shall be published in a newspaper of general circulation in the municipality by the secretary of the school board concerned.

Vacancies

12. Where a vacancy arises in the membership of a board, the appointing council shall promptly appoint a person to fill the vacancy and to hold office for the unexpired term.

Disqualifica-
tion of
board
member

13. If a board member,

- (a) is convicted of an indictable offence;
- (b) becomes incapacitated;
- (c) is absent from the meetings of the board for three consecutive months without being authorized by a board resolution;
- (d) ceases to be qualified for membership under clause 10 (1) (c); or
- (e) otherwise forfeits his or her seat,

the member's seat becomes vacant and the remaining members shall forthwith declare the seat vacant and notify the appointing council accordingly.

First
meeting

14.—(1) The clerk of the appointing council or, in the case of a union board, the clerk of the municipality having the greatest population shall call the first meeting of a board in a new term.

Chairman

(2) A board shall elect one of its members as chairman at its first meeting in a new term.

Acting
chairman

(3) In the absence of the chairman, the board may appoint one of its members as acting chairman.

Staff

15.—(1) A board may appoint and remove such officers and servants as it considers necessary, determine the terms of their employment, fix their remuneration and prescribe their duties.

Chief
executive
officer

(2) Every board shall appoint a chief executive officer who shall have general supervision over and direction of the operations of the public library and its staff, shall attend all board

meetings and shall have the other powers and duties that the board assigns to him or her from time to time.

(3) Every board shall appoint a secretary, who may also be the chief executive officer, and who shall, Secretary

(a) conduct the board's official correspondence; and

(b) keep minutes of every meeting of the board.

(4) A board shall appoint a treasurer, who may also be the secretary, and who shall, Treasurer

(a) receive and account for all the board's money;

(b) open an account or accounts in the name of the board in a chartered bank, trust company or credit union approved by the board;

(c) deposit all money received on the board's behalf to the credit of that account or accounts; and

(d) disburse the money as the board directs.

16.—(1) A board shall hold regular meetings at least once monthly from January to June and from September to December, both inclusive, and at such other times as it considers necessary. Regular meetings

(2) The chairman or any two members of a board may summon a special meeting of the board by giving each member reasonable notice in writing, specifying the purpose for which the meeting is called. Special meetings

(3) Despite any other Act, board meetings shall be open to the public, except that where the board is of the opinion that intimate financial, personal or other matters may be disclosed at a meeting and that the desirability of protecting against the consequences of their public disclosure outweighs the desirability of holding the meeting in public, the board may hold that meeting in the absence of the public. Open meetings: exception

(4) Despite subsection (3), the chairman may exclude any person from a meeting for improper conduct. Excluding person

(5) The presence of a majority of the board is necessary for the transaction of business at a meeting. Quorum

(6) The chairman or acting chairman of a board may vote with the other members of the board upon all questions, and Voting

any question on which there is an equality of votes shall be deemed to be negative.

Language

R.S.O. 1980,
c. 302

17. A board may conduct its meetings in English or French or in both English and French, and subsections 104a (1), (4), (5), (6) and (7) of the *Municipal Act* apply to a board with necessary modifications.

Expenses

18. The members of a board may be reimbursed by council for proper travelling and other expenses incurred in carrying out their duties as members of the board.

Real
property

19.—(1) A board may, with the consent of the appointing council or, where it is a union board, the consent of a majority of the councils of the municipalities for which it was established,

- (a) acquire land required for its purposes by purchase, lease, expropriation or otherwise;
- (b) erect, add to or alter buildings;
- (c) acquire or erect a building larger than is required for library purposes, and lease any surplus part of the building; and
- (d) sell, lease or otherwise dispose of any land or building that is no longer required for the board's purposes.

Application
of
R.S.O. 1980,
c. 148

(2) The *Expropriations Act* applies to the expropriation of land under subsection (1).

Powers and
duties of
board

20. A board,

- (a) shall seek to provide, in co-operation with other boards, a comprehensive and efficient public library service that reflects the community's unique needs;
- (b) shall seek to provide library services in the French language, where appropriate;
- (c) shall operate one or more libraries and ensure that they are conducted in accordance with this Act and the regulations;
- (d) may operate special services in connection with a library as it considers necessary;

- (e) shall fix the times and places for board meetings and the mode of calling and conducting them, and ensure that full and correct minutes are kept;
- (f) shall make an annual report to the Minister and make any other reports required by this Act and the regulations or requested by the Minister from time to time;
- (g) shall make provision for insuring the board's real and personal property;
- (h) shall take proper security for the treasurer; and
- (i) may appoint such committees as it considers expedient.

21. A county library board shall operate a branch library in each local municipality that operated a public library before that municipality became part of the county library system, unless the county council and the council of the municipality concerned agree otherwise.

Operation of branch libraries by county library board

22.—(1) A board may, with the approval of the appointing council or councils, grant an annual retirement allowance to an employee in accordance with section 100 of the *Municipal Act*, and that section applies with necessary modifications.

Retirement allowances

R.S.O. 1980, c. 302

(2) A board may, by resolution, provide pensions for employees or any class of them and their surviving spouses and children in the manner and subject to the conditions set out in paragraph 46 of section 208 of the *Municipal Act*, and that paragraph applies with necessary modifications.

Pensions

R.S.O. 1980, c. 302

(3) A board may, by resolution, establish a system of sick leave credit gratuities for employees or any class of them in the manner and subject to the conditions set out in paragraph 47 of section 208 of the *Municipal Act*, and that paragraph applies with necessary modifications.

Sick leave credits

R.S.O. 1980, c. 302

23.—(1) A board shall not make a charge for admission to a public library or for use in the library of the library's materials.

Libraries to be open to public

(2) Every board shall allow the public to,

Certain library services free

- (a) borrow circulating books; and
- (b) use reference and information services as the board considers practicable,

without making any charge.

Fees

(3) A board may impose such fees as it considers proper for,

- (a) services not referred to in subsections (1) and (2);
- (b) the use of the parts of a building that are not being used for public library purposes; and
- (c) the use of library services by persons who do not reside in the area of the board's jurisdiction.

Rules

(4) Subject to the regulations, a board may make rules,

- (a) for the use of library services;
- (b) for the admission of the public to the library;
- (c) for the exclusion from the library of persons who behave in a disruptive manner or cause damage to library property;
- (d) imposing fines for breaches of the rules;
- (e) suspending library privileges for breaches of the rules; and
- (f) regulating all other matters connected with the management of the library and library property.

Estimates

24.—(1) A public library board, county library board or county library co-operative board shall submit to the appointing council, annually on or before the date and in the form specified by the council, estimates of all sums required during the year for the purposes of the board.

Approval
of
estimates

(2) The amount of the board's estimates that is approved by the council, subject to any terms and conditions that the council imposes, shall be adopted by the board and shall be paid to the board out of the moneys appropriated for it.

Idem:
union
board

(3) A union board shall submit its estimates to each of the councils of the municipalities for which the board was established, and subsections (1) and (2) apply to the union board with necessary modifications.

Where two
or more
municipalities
concerned

(4) A union board shall submit with its estimates a statement as to the proportion of the estimates that is to be charged to each of the municipalities, and if the estimates of

the board are approved or amended and approved by the councils of the municipalities representing more than one-half of the population of the area for which the board was established, they are binding on all the municipalities.

(5) A public library board, county library board or county library co-operative board shall submit its annual financial statements, audited by a person appointed under section 88 of the *Municipal Act*, to the council annually on or before the date specified by the council.

Audited
financial
statements

R.S.O. 1980,
c. 302

(6) A union board shall submit its annual financial statements to each of the councils of the municipalities for which the board was established, and subsection (5) applies to the union board with necessary modifications.

Idem: union
board

25.—(1) Subject to the approval of the Ontario Municipal Board, the sums required by a public library board or union board for the purposes of acquiring land, for building, erecting or altering a building or for acquiring books and other things required for a newly established library may, on the application of the board, be raised by the issue of municipal debentures.

Debentures
for library
purposes

(2) The board's application shall be made to the council or councils of the municipality or municipalities for which the board was established.

Application
to council

(3) The council or, if more than one, each of the councils, at the first meeting after receiving the application or as soon thereafter as possible, shall consider and approve or disapprove it, and if a vote in any council results in a tie, the application shall be deemed to be disapproved by the council.

Council
to deal
with
application

(4) If the council, or a majority of the councils where there are more than one, approves the application and the Ontario Municipal Board approves it, the council of the municipality or, if more than one, the council of the municipality that has the greatest population shall raise the sum required by the issue of debentures in the manner provided by the *Municipal Act*, or, if it so desires, the council of any municipality may raise its proportion of the sum required by the issue of its own debentures.

Issue of
debentures

R.S.O. 1980,
c. 302

26.—(1) The amount estimated by a county library board to meet its operating costs, as approved by the council, shall be included in the amount required by the county for general county purposes under subsection 164 (1) of the *Municipal Act*, and shall be apportioned among the municipalities forming part of the county for municipal purposes, unless not all

Library
estimates
included
in county
estimates

R.S.O. 1980,
c. 302

those municipalities participate in the county library, in which case the county council shall by by-law apportion the amount estimated by the county library board among the participating municipalities.

Accommodation may be provided by local municipality

(2) The council of one or more participating municipalities may, at the request of the county library board, rent accommodation to the board and may, subject to the approval of the Ontario Municipal Board, issue municipal debentures for the cost of constructing a building for the board's purposes, but the ownership of the building shall remain with the municipality.

Grant from council

27. The council of any municipality or county may make a grant in money, lands or buildings to a board.

Inspection of records

28. A person may, during ordinary business hours, inspect any records, books, accounts and documents in the possession or control of a board's secretary.

Contract for library services

29.—(1) The council of a municipality, a local service board, the council of an Indian band or the trustees of an improvement district may, instead of establishing or maintaining a public library, enter into a contract with a public library board, union board or county library board, or, where subsection 34 (2) applies, with the Ontario library service board that has jurisdiction, for the purpose of providing the residents of the municipality or local service board area or the members of the band, as the case may be, with library services, on the terms and conditions set out in the agreement.

Annual report to Minister

(2) The council, local service board, band council or trustees entering into a contract under subsection (1) shall make an annual financial report to the Minister and make any other reports required by this Act and the regulations or requested by the Minister.

Minister may make legislative grants to boards

30.—(1) The Minister may make a grant to a board out of legislative appropriations for library purposes, on the prescribed conditions.

Idem: where municipality, etc., has contract for library services

(2) The Minister may make a grant out of legislative appropriations for library purposes to a municipality, local service board, Indian band or improvement district that has a contract for library services under subsection 29 (1), on the prescribed conditions.

Idem: library of regional municipality

(3) Where a regional municipality has established a public library board, the Minister may make a grant to the board out

of legislative appropriations for library purposes as if it were a board under this Part.

(4) Where the council of an Indian band or a local service board has established a public library, the Minister may make a grant to the Indian band or local service board out of legislative appropriations for library purposes as if it were a board under this Part.

Idem:
library of
Indian band
or local
service
board

PART II

ONTARIO LIBRARY SERVICE

31. The Minister may establish and locate Ontario library service areas throughout Ontario, may determine and may from time to time alter the boundaries of an Ontario library service area and may dissolve an Ontario library service area.

Establishment,
etc., of
Ontario library
service areas

32.—(1) Every regional library system established for a region under a predecessor of this Act that was being operated immediately before the day this Part comes into force is dissolved and,

Regional
library
systems
dissolved

- (a) where the region lies entirely within the boundaries of an Ontario library service area, the assets and liabilities of the regional library system are vested in and assumed by the board of the Ontario library service area; or
- (b) where two or more Ontario library service areas are established in the region, the assets and liabilities of the regional library system shall be apportioned among the boards of the Ontario library service areas as the Minister directs.

(2) The fiscal year of an Ontario library service area begins on the 1st day of April in each year and ends on the 31st day of March in the following year.

Fiscal
year

33.—(1) An Ontario library service area shall be under the jurisdiction of a board, which is a corporation known as “The (*insert name specified by the Minister*) Ontario Library Service Board”.

Board

(2) A board shall consist of,

Composition
of board

- (a) one member appointed by the public library board for every municipality within the Ontario library service area that has a population of 15,000 or more;

- (b) one member appointed by the county library board for every county within the Ontario library service area; and
- (c) if the number of members appointed under clauses (a) and (b) is,
 - (i) less than nine, a number of additional members appointed by the Minister that brings the number of members to a total not exceeding nine, or
 - (ii) nine or more, a number of additional members appointed by the Minister that does not exceed one less than the number appointed under clauses (a) and (b).

First
meeting, etc.

(3) The Minister or the Minister's delegate shall arrange for appointments to a board and shall call the first meeting of a board in a fiscal year.

Term of
office

(4) A board member shall hold office until the last day of the fiscal year in which he or she is appointed, or until a successor is appointed, whichever is longer, and may be reappointed for one or more further terms.

Vacancies

(5) Where a vacancy arises in the membership of the board, the appointing public library board or county library board or the Minister, as the case may be, may appoint a person to fill the vacancy and to hold office for the unexpired term.

Objects of
board

34.—(1) The objects of a board are to deliver programs and services on behalf of the Minister by,

- (a) increasing co-operation and co-ordination among public library boards and other information providers in order to promote the provision of library services to the public; and
- (b) assisting public library boards by providing them with services and programs that reflect their needs, including consultation, training and development services.

Direct
library
service
in northern
Ontario

(2) The board of an Ontario library service area designated by the Minister as a northern Ontario library service area may provide library services directly, whether under a contract with the council of a municipality, a local service board, the council of an Indian band or the trustees of an improvement

district in the Ontario library service area as described in subsection 29 (1) or otherwise.

35.—(1) A board has the powers necessary or convenient to achieve its objects and, without limiting the generality of the foregoing, may, Powers of board

- (a) subject to clause (2) (a), make by-laws and rules for the administration of its affairs;
- (b) appoint any person by resolution to execute documents on behalf of the board and to affix the board's seal to them;
- (c) appoint such committees as it considers expedient; and
- (d) enter into agreements with public library boards, union library boards and county library boards.

(2) A board shall,

Duties of board

- (a) conduct its affairs in accordance with the administrative policies and procedures determined by the Minister;
- (b) fix the times and places for board meetings and the mode of calling them, and ensure that proper minutes are kept;
- (c) make an annual report to the Minister and make any other reports requested by the Minister;
- (d) make provision for insuring the board's real and personal property; and
- (e) take proper security for the treasurer.

36.—(1) In each fiscal year the board shall submit to the Minister, in the form and on or before the day specified by the Minister, estimates of all sums required during the year for the area's purposes. Estimates

(2) The amount of the board's estimates that is approved by the Minister shall be adopted by the board and shall be paid to the board out of legislative appropriations for library purposes in the amounts, at the times and on the terms and conditions that the Minister considers proper. Approval of estimates

37. A board shall submit to the Minister,

Financial reports, etc.

- (a) in each fiscal year, its audited financial statements and descriptions of its programs and activities; and
- (b) such further information as the Minister requests from time to time.

Application
of general
provisions

38. Sections 13 to 18, except subsections 14 (1) and 16 (1), apply to a board with necessary modifications.

PART III

GENERAL

Regulations

39. The Lieutenant Governor in Council may make regulations,

- (a) providing for the distribution of all moneys appropriated by the Legislature for library purposes;
- (b) prescribing the conditions governing the payments of grants to boards;
- (c) respecting the establishment, organization, management, operation, premises and rules of public libraries.

Special
library
service
boards

40.—(1) The Minister may establish special library service boards to provide the resources and services that the Minister specifies and may make grants to special library service boards out of legislative appropriations for library purposes.

s. 37
applies

(2) Section 37 applies to a special library service board with necessary modifications.

Metropolitan
Toronto
Library
Board
R.S.O. 1980,
c. 314

(3) The Metropolitan Toronto Library Board, as continued by subsection 148 (1) of the *Municipality of Metropolitan Toronto Act*, shall be deemed to be a special library service board and may provide library resources and services to the Ontario library community.

Withholding
grant on
default of
board

41. Where a board in any fiscal year fails to comply with this Act or the regulations, the Minister may withhold the whole or any part of the legislative grant that would otherwise be payable to the board for that year.

Dissolution
by Minister

42.—(1) The Minister may dissolve a public library board, a union board, a county library board or a county library co-operative board where the board has not, during the two year period immediately preceding the dissolution, maintained and operated a library.

(2) The Minister may dissolve an Ontario library service board where the Ontario library service area under its jurisdiction has been dissolved. Idem

(3) Where a board is dissolved under subsection (1), its assets and liabilities are vested in and assumed by the municipality or county or, in the case of a union board, are distributed as the Minister directs among the municipalities for which the union board was established. Assets and liabilities of dissolved board

(4) Where a board is dissolved under subsection (2), its assets and liabilities are vested in and assumed by the Crown in right of Ontario. Idem

43. The *Public Libraries Act*, being chapter 414 of the Revised Statutes of Ontario, 1980, is repealed. Repeal

44. Subsection 148 (7) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is amended by striking out "board of a regional library system" in the third line and inserting in lieu thereof "special library services board".

45. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

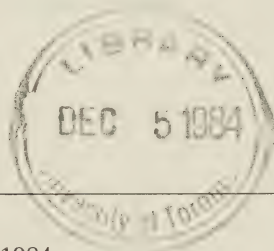
46. The short title of this Act is the *Public Libraries Act*, 1984. Short title

Bill 93

An Act respecting Public Libraries

The Hon. S. Fish

Minister of Citizenship and Culture



1st Reading June 4th, 1984

2nd Reading November 15th, 1984

3rd Reading

Royal Assent

(Reprinted as amended by the Social Development Committee)

EXPLANATORY NOTES

The Bill substantially revises the *Public Libraries Act*.

Some of the major changes are:

1. Public library boards, union boards (Part I of the existing Act), county library boards and county library co-operative boards (Part IV of the existing Act) are all dealt with in a new Part I in a manner that eliminates unnecessary duplication while preserving their different characteristics. Cities and separated towns may join county libraries.
2. The size of a board is flexible within a range that depends upon the type of board concerned. Members are appointed for terms concurrent with the term of the appointing council. Provision is made for school board representation on public library boards.
3. Board meetings are normally open to the public and public notice of board vacancies is required.
4. Recognition is given to French language library services and board proceedings.
5. Municipal and county councils, local service boards, Indian band councils and trustees of improvement districts may make library service agreements with existing boards, rather than establishing their own libraries.
6. The Ontario Provincial Library Council is abolished, and references to provincial certification of librarians are dropped.
7. Part III of the existing Act (Regional Library Service) is replaced by a new Part II, establishing a system of Ontario library service areas.
8. The Minister is authorized to establish special library service boards with special mandates, and the Metropolitan Toronto Library Board is deemed to be one of these.
9. The Minister is empowered to dissolve boards under certain circumstances.

Bill 93

1984

An Act respecting Public Libraries

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpretation

- (a) “board” in Part I means a public library board, a union board, a county library board or a county library co-operative board and in Part II means an Ontario library service board;
- (b) “Minister” means the Minister of Citizenship and Culture;
- (c) “municipality” means a city, town, village, township or improvement district;
- (d) “prescribed” means prescribed by the regulations;
- (e) “regulations” means the regulations made under this Act.

PART I

PUBLIC LIBRARY SERVICE

PUBLIC LIBRARY BOARDS

2. Every public library established under a predecessor of this Part that was being operated immediately before the day this Part comes into force is continued subject to this Part.

Public
libraries
continued

3.—(1) The council of a municipality and the trustees of an improvement district may by by-law establish a public library.

Establishment
of public
library

(2) When a by-law is passed under subsection (1), the clerk shall promptly mail or deliver a copy of the by-law to the Minister.

Copy of
by-law to
be sent to
Minister

Board

(3) A public library shall be under the management and control of a board, which is a corporation known as “The (*insert name of municipality*) Public Library Board”.

UNION BOARDS

Union
libraries
continued

4. Every union public library established under a predecessor of this Part that was being operated immediately before the day this Part comes into force is continued subject to this Part.

Establishment
of union
public
library

5.—(1) The councils of two or more municipalities may make an agreement for the establishment of a union public library.

Agreement

(2) An agreement under subsection (1) shall specify what proportion of the cost of the establishment, operation and maintenance of the union public library, including the cost of existing libraries, shall be paid by each municipality.

Union board

(3) A union public library shall be under the management and control of a union board, which is a corporation known as “The (*insert appropriate name*) Union Public Library Board”.

Dissolution
of boards
included
in union

(4) When an agreement is made under subsection (1), the public library boards established in the municipalities for which the union board is established are thereby dissolved, and the assets and liabilities of those boards are vested in and assumed by the union board, unless the agreement provides otherwise.

Copy of
agreement
to be sent
to Minister

(5) When an agreement is made under subsection (1), the clerk of the municipality that has the greatest population shall promptly mail or deliver a copy of the agreement to the Minister.

COUNTY LIBRARY BOARDS

County
libraries
continued

6. Every county library established under a predecessor of this Part that was being operated immediately before the day this Part comes into force is continued subject to this Part.

County
library
establishment

7.—(1) Where resolutions of the councils of at least two-thirds of the municipalities forming part of a county for municipal purposes request that the county establish a county library, the council of the county may by by-law establish a county library for those municipalities.

(2) When a by-law is passed under subsection (1), the clerk shall promptly mail or deliver a copy of the by-law to the Minister.

Copy of
by-law to
be sent to
Minister

(3) At any time after a county library is established, the council of a non-participating municipality, city or separated town and the county council may make an agreement bringing the non-participating municipality, city or separated town into the county library, and the county council shall amend the establishing by-law accordingly.

Additional
members:
agreements

(4) An agreement made under subsection (3) shall specify what proportion of the cost of the establishment, operation and maintenance of the county library shall be paid by the county and the city or separated town respectively.

Contents of
agreement

(5) When a county library is established, every public library board and county library co-operative established for a municipality or any part thereof that is included in the area for which the county library is established is dissolved, and the assets and liabilities of the boards are vested in and assumed by the county library board unless the by-law establishing the county library provides otherwise.

Dissolution
of public
library
boards, etc.

(6) When a municipality joins a county library, subsection (5) applies with necessary modifications.

Idem

(7) A county library shall be under the management and control of a board, which is a corporation known as "The (insert name of county) County Library Board".

County
library
board

COUNTY LIBRARY CO-OPERATIVE BOARDS

8.—(1) Every county library co-operative board established under a predecessor of this Act that was in existence immediately before the day this Part comes into force is continued subject to this Part.

County
library
co-operatives
continued

(2) Where a county library co-operative has jurisdiction in an area for which a county library is established, the county library co-operative is dissolved, and its assets and liabilities are vested in and assumed by the county library board.


When
dissolved

GENERAL

9.—(1) A public library board for a municipality whose population is less than 100,000 shall be composed of at least five and no more than nine members appointed by the municipal council.

Composition
of public
library
board

Idem


(2) A public library board for a municipality whose population is 100,000 or more shall be composed of at least nine and no more than fifteen members appointed by the municipal council. 

School board
representation
on public
library board


(3) In the case of a public library board for a municipality whose population is 10,000 or more, school boards with jurisdiction in the municipality shall be represented on the public library board in the following manner:

1. Two of the members of the public library board shall be persons recommended by the board of education and one member shall be a person recommended by the separate school board, if any, unless paragraph 2 applies.
2. If separate school electors are a majority of electors in the municipality, two of the members of the public library board shall be persons recommended by the separate school board and one member shall be a person recommended by the board of education.
3. If there is more than one board of education or more than one separate school board, in each case the board that is supported by the largest number of electors of the municipality shall make the recommendation or recommendations.


Composition
of union
board

(4) A union board shall be composed of at least five and no more than fifteen members appointed by the councils of the affected municipalities in the proportions and in the manner specified in the agreement made under subsection 5 (1). 


Idem:
county
library
board

(5) A county library board shall be composed of at least seven and no more than fifteen members appointed by the county council. 

City or
separated
town:
appointments
to county
library
board

(6) When a city or separated town joins a county library, the members of the county library board shall be appointed by the county council and the council of the city or separated town in the proportions agreed upon by the county council and the council of the city or separated town. 

Idem:
county
library
co-operative
board

(7) The board of a county library co-operative shall be composed of at least seven and no more than fifteen members appointed by the county council. 

10.—(1) A person is qualified to be appointed as a member of a board who is a member of the appointing council or, Qualifications of board members

- (a) is at least eighteen years old;
- (b) is a Canadian citizen;
- (c) is,
 - (i) in the case of a public library board, a resident of the municipality for which the board is established, or is a resident of a municipality or of the board area of a local service board or a member of an Indian band that has a contract with the board under section 29,
 - (ii) in the case of a union board, a resident of one of the affected municipalities, or
 - (iii) in the case of a county library board or county library co-operative board, a resident of the county; and
- (d) is not employed by the board or by the municipality or county or, in the case of a union board, by any of the affected municipalities.

(2) The appointing council shall not appoint more of its own members to a board than the number that is, Number of council members on board limited

- (a) in the case of a public library board or union board, one less than a majority of the board; and
- (b) in the case of a county library or a county co-operative library, a bare majority of the board.

(3) A board member shall hold office for a term concurrent with the term of the appointing council, or until a successor is appointed, and may be reappointed for one or more further terms. Term

(4) The first appointments of members of a new board shall be made at a regular meeting of council and the member shall take office as soon as possible thereafter, and thereafter appointments shall be made at the first meeting of council in each term, but if the council fails to make the appointments at its first meeting, it shall do so at its next regular meeting. Time for making appointments

11.—(1) The clerk of the appointing municipality or county or, in the case of a union board, the clerks of the Notice of vacancies

affected municipalities shall give public notice of vacancies on the board by publishing a notice of them, inviting applications, in a newspaper of general circulation in the municipality.

Idem

(2) The notice referred to in subsection (1) shall be in English or in both English and French, as may be appropriate.

Idem

(3) In the case of a public library board, where a vacancy on the board requires the appointment of a person recommended by the public school board, board of education or separate school board that has jurisdiction in the municipality, the notice referred to in subsection (1) shall be published in a newspaper of general circulation in the municipality by the secretary of the school board concerned.

Vacancies

12. Where a vacancy arises in the membership of a board, the appointing council shall promptly appoint a person to fill the vacancy and to hold office for the unexpired term, except where the unexpired term is less than forty-five days.

Disqualifica-
tion of
board
member

13. If a board member,

- (a) is convicted of an indictable offence;
- (b) becomes incapacitated;
- (c) is absent from the meetings of the board for three consecutive months without being authorized by a board resolution;
- (d) ceases to be qualified for membership under clause 10 (1) (c); or
- (e) otherwise forfeits his or her seat,


the member's seat becomes vacant and the remaining members shall forthwith declare the seat vacant and notify the appointing council accordingly.

First
meeting

14.—(1) The first meeting of a board in a new term shall be called,

- (a) if a by-law has been passed under subsection (2), by the chief executive officer appointed under subsection 15 (2); and
- (b) if no by-law has been passed under subsection (2), by the clerk of the appointing council or, in the case

of a union board, the clerk of the municipality having the greatest population.

(2) A municipal council or, in the case of a union board, a majority of the municipal councils affected may by by-law authorize the chief executive officer appointed under subsection 15 (2) to call the first meeting of the board in each new term. 

By-law
re calling
first
meeting

(3) A board shall elect one of its members as chairman at its first meeting in a new term.

Chairman

(4) In the absence of the chairman, the board may appoint one of its members as acting chairman.

Acting
chairman

15.—(1) A board may appoint and remove such officers and servants as it considers necessary, determine the terms of their employment, fix their remuneration and prescribe their duties.

Staff

(2) A board shall appoint a chief executive officer who shall have general supervision over and direction of the operations of the public library and its staff, shall attend all board meetings and shall have the other powers and duties that the board assigns to him or her from time to time.

Chief
executive
officer

 (3) A board shall appoint a secretary who shall,

Secretary

(a) conduct the board's official correspondence; and

(b) keep minutes of every meeting of the board.

(4) A board shall appoint a treasurer who shall,


Treasurer

(a) receive and account for all the board's money;

(b) open an account or accounts in the name of the board in a chartered bank, trust company or credit union approved by the board;

(c) deposit all money received on the board's behalf to the credit of that account or accounts; and

(d) disburse the money as the board directs.

(5) The same person may be both the secretary and the treasurer, and the chief executive officer appointed under subsection (2) may be the secretary and may be the treasurer. 

Idem

Regular
meetings

16.—(1) A board shall hold regular meetings at least once monthly from January to June and from September to December, both inclusive, and at such other times as it considers necessary.

Special
meetings

(2) The chairman or any two members of a board may summon a special meeting of the board by giving each member reasonable notice in writing, specifying the purpose for which the meeting is called.

Open
meetings:
exception

(3) Despite any other Act, board meetings shall be open to the public, except that where the board is of the opinion that intimate financial or personal matters may be disclosed at a meeting and that the desirability of protecting against the consequences of their public disclosure outweighs the desirability of holding the meeting in public, the board may hold that meeting in the absence of the public.

Excluding
person

(4) Despite subsection (3), the chairman may exclude any person from a meeting for improper conduct.

Quorum

(5) The presence of a majority of the board is necessary for the transaction of business at a meeting.

Voting

(6) The chairman or acting chairman of a board may vote with the other members of the board upon all questions, and any question on which there is an equality of votes shall be deemed to be negative.

Language

17. A board may conduct its meetings in English or French or in both English and French, and subsections 104a (1), (4), (5), (6) and (7) of the *Municipal Act* apply to a board with necessary modifications.

R.S.O. 1980,
c. 302

Expenses

18. A board may reimburse its members for proper travelling and other expenses incurred in carrying out their duties as members.

Real
property

19.—(1) A board may, with the consent of the appointing council or, where it is a union board, the consent of a majority of the councils of the municipalities for which it was established,

(a) acquire land required for its purposes by purchase, lease, expropriation or otherwise;

(b) erect, add to or alter buildings;

- (c) acquire or erect a building larger than is required for library purposes, and lease any surplus part of the building; and
- (d) sell, lease or otherwise dispose of any land or building that is no longer required for the board's purposes.

(2) The *Expropriations Act* applies to the expropriation of land under subsection (1).

Application
of
R.S.O. 1980,
c. 148

20. A board,

Powers and
duties of
board

- (a) shall seek to provide, in co-operation with other boards, a comprehensive and efficient public library service that reflects the community's unique needs;
- (b) shall seek to provide library services in the French language, where appropriate;
- (c) shall operate one or more libraries and ensure that they are conducted in accordance with this Act and the regulations;
- (d) may operate special services in connection with a library as it considers necessary;
- (e) shall fix the times and places for board meetings and the mode of calling and conducting them, and ensure that full and correct minutes are kept;
- (f) shall make an annual report to the Minister and make any other reports required by this Act and the regulations or requested by the Minister from time to time;
- (g) shall make provision for insuring the board's real and personal property;
- (h) shall take proper security for the treasurer; and
- (i) may appoint such committees as it considers expedient.

21. A county library board shall operate a branch library in each local municipality that operated a public library before that municipality became part of the county library system, unless the county council and the council of the municipality concerned agree otherwise.

Operation
of branch
libraries
by county
library
board

Retirement
allowances

R.S.O. 1980,
c. 302

22.—(1) A board may, with the approval of the appointing council or councils, grant an annual retirement allowance to an employee in accordance with section 100 of the *Municipal Act*, and that section applies with necessary modifications.

Pensions

R.S.O. 1980,
c. 302

(2) A board may, by resolution, provide pensions for employees or any class of them and their surviving spouses and children in the manner and subject to the conditions set out in paragraph 46 of section 208 of the *Municipal Act*, and that paragraph applies with necessary modifications.

Sick leave
credits

R.S.O. 1980,
c. 302

(3) A board may, by resolution, establish a system of sick leave credit gratuities for employees or any class of them in the manner and subject to the conditions set out in paragraph 47 of section 208 of the *Municipal Act*, and that paragraph applies with necessary modifications.

Libraries
to be
open to
public

23.—(1) A board shall not make a charge for admission to a public library or for use in the library of the library's materials.

Certain
library
services
free

➡ (2) Every board shall allow the public to,

- (a) reserve and borrow circulating materials that are prescribed or belong to a prescribed class; and ➡
- (b) use reference and information services as the board considers practicable,

without making any charge.

Fees

(3) A board may impose such fees as it considers proper for,

- (a) services not referred to in subsections (1) and (2);
- (b) the use of the parts of a building that are not being used for public library purposes; and
- (c) the use of library services by persons who do not reside in the area of the board's jurisdiction.

Rules

(4) Subject to the regulations, a board may make rules,

- (a) for the use of library services;
- (b) for the admission of the public to the library;

- (c) for the exclusion from the library of persons who behave in a disruptive manner or cause damage to library property;
- (d) imposing fines for breaches of the rules;
- (e) suspending library privileges for breaches of the rules; and
- (f) regulating all other matters connected with the management of the library and library property.

24.—(1) A public library board, county library board or county library co-operative board shall submit to the appointing council, annually on or before the date and in the form specified by the council, estimates of all sums required during the year for the purposes of the board.

Estimates

➡ (2) The amount of the board's estimates that is approved or amended and approved by the council shall be adopted by the board and shall be paid to the board out of the moneys appropriated for it.

Approval
of
estimates

(3) The board shall apply the money paid to it under subsection (2) in accordance with the estimates as approved, subject to subsection (4).

Idem

(4) The council may, in its approval of the board's estimates or at any time at the board's request, authorize the board to apply a specified amount or percentage of the money paid to it under subsection (2) otherwise than in accordance with the items of the estimates as approved.

Council may
authorize
variation

⬆ (5) A union board shall submit its estimates to each of the councils of the municipalities for which the board was established, and subsections (1), (2), (3) and (4) apply to the union board with necessary modifications.

Idem:
union
board

(6) A union board shall submit with its estimates a statement as to the proportion of the estimates that is to be charged to each of the municipalities, and if the estimates of the board are approved or amended and approved by the councils of the municipalities representing more than one-half of the population of the area for which the board was established, they are binding on all the municipalities.

Where two
or more
municipalities
concerned

(7) A public library board, county library board or county library co-operative board shall submit its annual financial

Audited
financial
statements

R.S.O. 1980,
c. 302

statements, audited by a person appointed under section 88 of the *Municipal Act*, to the council annually on or before the date specified by the council.

Idem: union
board

(8) A union board shall submit its annual financial statements to each of the councils of the municipalities for which the board was established, and subsection (7) applies to the union board with necessary modifications.

Debentures
for library
purposes

25.—(1) Subject to the approval of the Ontario Municipal Board, the sums required by a public library board or union board for the purposes of acquiring land, for building, erecting or altering a building or for acquiring books and other things required for a newly established library may, on the application of the board, be raised by the issue of municipal debentures.

Application
to council

(2) The board's application shall be made to the council or councils of the municipality or municipalities for which the board was established.

Council
to deal
with
application

(3) The council or, if more than one, each of the councils, at the first meeting after receiving the application or as soon thereafter as possible, shall consider and approve or disapprove it, and if a vote in any council results in a tie, the application shall be deemed to be disapproved by the council.

Issue of
debentures

(4) If the council, or a majority of the councils where there are more than one, approves the application and the Ontario Municipal Board approves it, the council of the municipality or, if more than one, the council of the municipality that has the greatest population shall raise the sum required by the issue of debentures in the manner provided by the *Municipal Act*, or, if it so desires, the council of any municipality may raise its proportion of the sum required by the issue of its own debentures.

R.S.O. 1980,
c. 302

Library
estimates
included
in county
estimates
R.S.O. 1980,
c. 302

26.—(1) The amount estimated by a county library board to meet its operating costs, as approved by the council, shall be included in the amount required by the county for general county purposes under subsection 164 (1) of the *Municipal Act*, and shall be apportioned among the municipalities forming part of the county for municipal purposes, unless not all those municipalities participate in the county library, in which case the county council shall by by-law apportion the amount estimated by the county library board among the participating municipalities.

Accommo-
dation
may be pro-
vided by
local
municipality

(2) The council of one or more participating municipalities may, at the request of the county library board, rent accom-

modation to the board and may, subject to the approval of the Ontario Municipal Board, issue municipal debentures for the cost of constructing a building for the board's purposes, but the ownership of the building shall remain with the municipality unless the board and the council of the municipality agree otherwise.

27. The council of any municipality or county may make a grant in money, lands or buildings to a board. Grant from council

28.—(1) A person may, during ordinary business hours, inspect any records, books, accounts and documents in the possession or control of a board's secretary. Inspection of records

⬇️ (2) Subsection (1) does not apply to information that, Exception

(a) in the secretary's opinion, is of an intimate financial or personal nature; or

(b) identifies an individual user of library services by name or makes him or her readily identifiable by other means. ⬆️

29.—(1) The council of a municipality, a local service board, the council of an Indian band or the trustees of an improvement district may, instead of establishing or maintaining a public library, enter into a contract with a public library board, union board or county library board, or, where subsection 34 (2) applies, with the Ontario library service board that has jurisdiction, for the purpose of providing the residents of the municipality or local service board area or the members of the band, as the case may be, with library services, on the terms and conditions set out in the agreement. Contract for library services

(2) The council, local service board, band council or trustees entering into a contract under subsection (1) shall make an annual financial report to the Minister and make any other reports required by this Act and the regulations or requested by the Minister. Annual report to Minister


⬇️ **30.—**(1) The Minister shall make a grant to every board out of legislative appropriations for library purposes, on the prescribed conditions. Payments to boards

(2) The Minister shall make a grant out of legislative appropriations for library purposes to every municipality, local service board, Indian band or improvement district that has a contract for library services under subsection 29 (1), on the prescribed conditions. Idem: where municipality, etc., has contract for library services

Idem:
library of
regional
municipality

(3) Where a regional municipality has established a public library board, the Minister shall make a grant to the board out of legislative appropriations for library purposes as if it were a board under this Part.

Idem:
library of
Indian band
or local
service
board

(4) Where the council of an Indian band or a local service board has established a public library, the Minister shall make a grant to the Indian band or local service board out of legislative appropriations for library purposes as if it were a board under this Part. 

PART II

ONTARIO LIBRARY SERVICE

Establishment,
etc., of
Ontario library
service areas

31. The Minister may establish and locate Ontario library service areas throughout Ontario, may determine and may from time to time alter the boundaries of an Ontario library service area and may dissolve an Ontario library service area.

Regional
library
systems
dissolved

32.—(1) Every regional library system established for a region under a predecessor of this Act that was being operated immediately before the day this Part comes into force is dissolved and,

- (a) where the region lies entirely within the boundaries of an Ontario library service area, the assets and liabilities of the regional library system are vested in and assumed by the board of the Ontario library service area; or
- (b) where two or more Ontario library service areas are established in the region, the assets and liabilities of the regional library system shall be apportioned among the boards of the Ontario library service areas as the Minister directs.

Fiscal
year

(2) The fiscal year of an Ontario library service area begins on the 1st day of April in each year and ends on the 31st day of March in the following year.

Board

33.—(1) An Ontario library service area shall be under the jurisdiction of a board, which is a corporation known as “The (*insert name specified by the Minister*) Ontario Library Service Board”.

Composition
of board

(2) A board shall consist of,

- (a) one member appointed by the public library board for every municipality within the Ontario library

service area that has a population of 15,000 or more;

- (b) one member appointed by the county library board for every county within the Ontario library service area; and
- (c) if the number of members appointed under clauses (a) and (b) is,
 - (i) less than nine, a number of additional members appointed by the Minister that brings the number of members to a total not exceeding nine, or
 - (ii) nine or more, a number of additional members appointed by the Minister that does not exceed one less than the number appointed under clauses (a) and (b).

(3) The Minister or the Minister's delegate shall arrange for appointments to a board and shall call the first meeting of a board in a fiscal year. First meeting, etc.

(4) A board member shall hold office until the last day of the fiscal year in which he or she is appointed, or until a successor is appointed, whichever is longer, and may be reappointed for one or more further terms. Term of office

(5) Where a vacancy arises in the membership of the board, the appointing public library board or county library board or the Minister, as the case may be, may appoint a person to fill the vacancy and to hold office for the unexpired term. Vacancies

34.—(1) The objects of a board are to deliver programs and services on behalf of the Minister by, Objects of board

- (a) increasing co-operation and co-ordination among public library boards and other information providers in order to promote the provision of library services to the public; and
- (b) assisting public library boards by providing them with services and programs that reflect their needs, including consultation, training and development services.

(2) The board of an Ontario library service area designated by the Minister as a northern Ontario library service area may provide library services directly, whether under a contract Direct library service in northern Ontario

with the council of a municipality, a local service board, the council of an Indian band or the trustees of an improvement district in the Ontario library service area as described in subsection 29 (1) or otherwise.

Powers of
board

35.—(1) A board has the powers necessary or convenient to achieve its objects and, without limiting the generality of the foregoing, may,

- (a) subject to clause (2) (a), make by-laws and rules for the administration of its affairs;
- (b) appoint any person by resolution to execute documents on behalf of the board and to affix the board's seal to them;
- (c) appoint such committees as it considers expedient; and
- (d) enter into agreements with public library boards, union library boards and county library boards.

Duties of
board

(2) A board shall,

- (a) conduct its affairs in accordance with the administrative policies and procedures determined by the Minister;
- (b) fix the times and places for board meetings and the mode of calling them, and ensure that proper minutes are kept;
- (c) make an annual report to the Minister and make any other reports requested by the Minister;
- (d) make provision for insuring the board's real and personal property; and
- (e) take proper security for the treasurer.

Estimates

36.—(1) In each fiscal year the board shall submit to the Minister, in the form and on or before the day specified by the Minister, estimates of all sums required during the year for the area's purposes.

Approval
of
estimates

(2) The amount of the board's estimates that is approved by the Minister shall be adopted by the board and shall be paid to the board out of legislative appropriations for library purposes in the amounts, at the times and on the terms and conditions that the Minister considers proper.

37. A board shall submit to the Minister,

Financial reports, etc.

- (a) in each fiscal year, its audited financial statements and descriptions of its programs and activities; and
- (b) such further information as the Minister requests from time to time.

↓
38. Subsection 10 (1) and sections 13 to 18, except subsections 14 (1) and 16 (1), apply to a board with necessary modifications. ↑

Application of general provisions

PART III

GENERAL

↓
39. The Lieutenant Governor in Council may make regulations,

Regulations

- (a) providing for the distribution of all moneys appropriated by the Legislature for library purposes;
- (b) prescribing the conditions governing the payments of grants;
- (c) respecting the establishment, organization, management, premises and rules of public libraries;
- (d) prescribing circulating materials or classes of circulating materials for the purpose of clause 23 (2) (a) (free library services). ↑

40.—(1) The Minister may establish special library service boards to provide the resources and services that the Minister specifies and may make grants to special library service boards out of legislative appropriations for library purposes.

Special library service boards

(2) Section 37 applies to a special library service board with necessary modifications.

s. 37 applies

(3) The Metropolitan Toronto Library Board, as continued by subsection 148 (1) of the *Municipality of Metropolitan Toronto Act*, shall be deemed to be a special library service board and may provide library resources and services to the Ontario library community.

Metropolitan Toronto Library Board
R.S.O. 1980, c. 314

41. Where a board in any fiscal year fails to comply with this Act or the regulations, the Minister may withhold the whole or any part of the legislative grant that would otherwise be payable to the board for that year.

Withholding grant on default of board

Dissolution
by Minister

42.—(1) The Minister may dissolve a public library board, a union board, a county library board or a county library co-operative board where the board has not, during the two year period immediately preceding the dissolution, maintained and operated a library.

Idem

(2) The Minister may dissolve an Ontario library service board where the Ontario library service area under its jurisdiction has been dissolved.

Assets and
liabilities
of dissolved
board

(3) Where a board is dissolved under subsection (1), its assets and liabilities are vested in and assumed by the municipality or county or, in the case of a union board, are distributed as the Minister directs among the municipalities for which the union board was established.

Idem

(4) Where a board is dissolved under subsection (2), its assets and liabilities are vested in and assumed by the Crown in right of Ontario.

Repeal

43. The *Public Libraries Act*, being chapter 414 of the Revised Statutes of Ontario, 1980, is repealed.

44. Subsection 148 (7) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is amended by striking out “board of a regional library system” in the third line and inserting in lieu thereof “special library services board”.

Commence-
ment

45. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

46. The short title of this Act is the *Public Libraries Act, 1984*.

Bill 93

*(Chapter 57
Statutes of Ontario, 1984)*

An Act respecting Public Libraries

The Hon. S. Fish
Minister of Citizenship and Culture

<i>1st Reading</i>	June 4th, 1984
<i>2nd Reading</i>	November 15th, 1984
<i>3rd Reading</i>	December 11th, 1984
<i>Royal Assent</i>	December 14th, 1984

Bill 93

1984

An Act respecting Public Libraries

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpretation

- (a) “board” in Part I means a public library board, a union board, a county library board or a county library co-operative board and in Part II means an Ontario library service board;
- (b) “Minister” means the Minister of Citizenship and Culture;
- (c) “municipality” means a city, town, village, township or improvement district;
- (d) “prescribed” means prescribed by the regulations;
- (e) “regulations” means the regulations made under this Act.

PART I

PUBLIC LIBRARY SERVICE

PUBLIC LIBRARY BOARDS

2. Every public library established under a predecessor of this Part that was being operated immediately before the day this Part comes into force is continued subject to this Part.

Public
libraries
continued

3.—(1) The council of a municipality and the trustees of an improvement district may by by-law establish a public library.

Establishment
of public
library

(2) When a by-law is passed under subsection (1), the clerk shall promptly mail or deliver a copy of the by-law to the Minister.

Copy of
by-law to
be sent to
Minister

Board

(3) A public library shall be under the management and control of a board, which is a corporation known as “The (*insert name of municipality*) Public Library Board”.

UNION BOARDS

Union
libraries
continued

4. Every union public library established under a predecessor of this Part that was being operated immediately before the day this Part comes into force is continued subject to this Part.

Establishment
of union
public
library

5.—(1) The councils of two or more municipalities may make an agreement for the establishment of a union public library.

Agreement

(2) An agreement under subsection (1) shall specify what proportion of the cost of the establishment, operation and maintenance of the union public library, including the cost of existing libraries, shall be paid by each municipality.

Union board

(3) A union public library shall be under the management and control of a union board, which is a corporation known as “The (*insert appropriate name*) Union Public Library Board”.

Dissolution
of boards
included
in union

(4) When an agreement is made under subsection (1), the public library boards established in the municipalities for which the union board is established are thereby dissolved, and the assets and liabilities of those boards are vested in and assumed by the union board, unless the agreement provides otherwise.

Copy of
agreement
to be sent
to Minister

(5) When an agreement is made under subsection (1), the clerk of the municipality that has the greatest population shall promptly mail or deliver a copy of the agreement to the Minister.

COUNTY LIBRARY BOARDS

County
libraries
continued

6. Every county library established under a predecessor of this Part that was being operated immediately before the day this Part comes into force is continued subject to this Part.

County
library
establishment

7.—(1) Where resolutions of the councils of at least two-thirds of the municipalities forming part of a county for municipal purposes request that the county establish a county library, the council of the county may by by-law establish a county library for those municipalities.

(2) When a by-law is passed under subsection (1), the clerk shall promptly mail or deliver a copy of the by-law to the Minister.

Copy of by-law to be sent to Minister

(3) At any time after a county library is established, the council of a non-participating municipality, city or separated town and the county council may make an agreement bringing the non-participating municipality, city or separated town into the county library, and the county council shall amend the establishing by-law accordingly.

Additional members: agreements

(4) An agreement made under subsection (3) shall specify what proportion of the cost of the establishment, operation and maintenance of the county library shall be paid by the county and the city or separated town respectively.

Contents of agreement

(5) When a county library is established, every public library board and county library co-operative established for a municipality or any part thereof that is included in the area for which the county library is established is dissolved, and the assets and liabilities of the boards are vested in and assumed by the county library board unless the by-law establishing the county library provides otherwise.

Dissolution of public library boards, etc.

(6) When a municipality joins a county library, subsection (5) applies with necessary modifications.

Idem

(7) A county library shall be under the management and control of a board, which is a corporation known as “The *(insert name of county)* County Library Board”.

County library board

COUNTY LIBRARY CO-OPERATIVE BOARDS

8.—(1) Every county library co-operative board established under a predecessor of this Act that was in existence immediately before the day this Part comes into force is continued subject to this Part.

County library co-operatives continued

(2) Where a county library co-operative has jurisdiction in an area for which a county library is established, the county library co-operative is dissolved, and its assets and liabilities are vested in and assumed by the county library board.

When dissolved

GENERAL

9.—(1) A public library board for a municipality whose population is less than 100,000 shall be composed of at least five and no more than nine members appointed by the municipal council.

Composition of public library board

Idem

(2) A public library board for a municipality whose population is 100,000 or more shall be composed of at least nine and no more than fifteen members appointed by the municipal council.

School board
representation
on public
library board

(3) In the case of a public library board for a municipality whose population is 10,000 or more, school boards with jurisdiction in the municipality shall be represented on the public library board in the following manner:

1. Two of the members of the public library board shall be persons recommended by the board of education and one member shall be a person recommended by the separate school board, if any, unless paragraph 2 applies.
2. If separate school electors are a majority of electors in the municipality, two of the members of the public library board shall be persons recommended by the separate school board and one member shall be a person recommended by the board of education.
3. If there is more than one board of education or more than one separate school board, in each case the board that is supported by the largest number of electors of the municipality shall make the recommendation or recommendations.

Composition
of union
board

(4) A union board shall be composed of at least five and no more than fifteen members appointed by the councils of the affected municipalities in the proportions and in the manner specified in the agreement made under subsection 5 (1).

Idem:
county
library
board

(5) A county library board shall be composed of at least seven and no more than fifteen members appointed by the county council.

City or
separated
town:
appointments
to county
library
board

(6) When a city or separated town joins a county library, the members of the county library board shall be appointed by the county council and the council of the city or separated town in the proportions agreed upon by the county council and the council of the city or separated town.

Idem:
county
library
co-operative
board

(7) The board of a county library co-operative shall be composed of at least seven and no more than fifteen members appointed by the county council.

10.—(1) A person is qualified to be appointed as a member of a board who is a member of the appointing council or, Qualifications of board members

- (a) is at least eighteen years old;
- (b) is a Canadian citizen;
- (c) is,
 - (i) in the case of a public library board, a resident of the municipality for which the board is established, or is a resident of a municipality or of the board area of a local service board or a member of an Indian band that has a contract with the board under section 29,
 - (ii) in the case of a union board, a resident of one of the affected municipalities, or
 - (iii) in the case of a county library board or county library co-operative board, a resident of the county; and
- (d) is not employed by the board or by the municipality or county or, in the case of a union board, by any of the affected municipalities.

(2) The appointing council shall not appoint more of its own members to a board than the number that is, Number of council members on board limited

- (a) in the case of a public library board or union board, one less than a majority of the board; and
- (b) in the case of a county library or a county co-operative library, a bare majority of the board.

(3) A board member shall hold office for a term concurrent with the term of the appointing council, or until a successor is appointed, and may be reappointed for one or more further terms. Term

(4) The first appointments of members of a new board shall be made at a regular meeting of council and the member shall take office as soon as possible thereafter, and thereafter appointments shall be made at the first meeting of council in each term, but if the council fails to make the appointments at its first meeting, it shall do so at its next regular meeting. Time for making appointments

11.—(1) The clerk of the appointing municipality or county or, in the case of a union board, the clerks of the Notice of vacancies

affected municipalities shall give public notice of vacancies on the board by publishing a notice of them, inviting applications, in a newspaper of general circulation in the municipality.

Idem

(2) The notice referred to in subsection (1) shall be in English or in both English and French, as may be appropriate.

Idem

(3) In the case of a public library board, where a vacancy on the board requires the appointment of a person recommended by the public school board, board of education or separate school board that has jurisdiction in the municipality, the notice referred to in subsection (1) shall be published in a newspaper of general circulation in the municipality by the secretary of the school board concerned.

Vacancies

12. Where a vacancy arises in the membership of a board, the appointing council shall promptly appoint a person to fill the vacancy and to hold office for the unexpired term, except where the unexpired term is less than forty-five days.

Disqualifica-
tion of
board
member

13. If a board member,

- (a) is convicted of an indictable offence;
- (b) becomes incapacitated;
- (c) is absent from the meetings of the board for three consecutive months without being authorized by a board resolution;
- (d) ceases to be qualified for membership under clause 10 (1) (c); or
- (e) otherwise forfeits his or her seat,

the member's seat becomes vacant and the remaining members shall forthwith declare the seat vacant and notify the appointing council accordingly.

First
meeting

14.—(1) The first meeting of a board in a new term shall be called,

- (a) if a by-law has been passed under subsection (2), by the chief executive officer appointed under subsection 15 (2); and
- (b) if no by-law has been passed under subsection (2), by the clerk of the appointing council or, in the case

of a union board, the clerk of the municipality having the greatest population.

(2) A municipal council or, in the case of a union board, a majority of the municipal councils affected may by by-law authorize the chief executive officer appointed under subsection 15 (2) to call the first meeting of the board in each new term. By-law
re calling
first
meeting

(3) A board shall elect one of its members as chairman at its first meeting in a new term. Chairman

(4) In the absence of the chairman, the board may appoint one of its members as acting chairman. Acting
chairman

15.—(1) A board may appoint and remove such officers and servants as it considers necessary, determine the terms of their employment, fix their remuneration and prescribe their duties. Staff

(2) A board shall appoint a chief executive officer who shall have general supervision over and direction of the operations of the public library and its staff, shall attend all board meetings and shall have the other powers and duties that the board assigns to him or her from time to time. Chief
executive
officer

(3) A board shall appoint a secretary who shall, Secretary

- (a) conduct the board's official correspondence; and
- (b) keep minutes of every meeting of the board.

(4) A board shall appoint a treasurer who shall, Treasurer

- (a) receive and account for all the board's money;
- (b) open an account or accounts in the name of the board in a chartered bank, trust company or credit union approved by the board;
- (c) deposit all money received on the board's behalf to the credit of that account or accounts; and
- (d) disburse the money as the board directs.

(5) The same person may be both the secretary and the treasurer, and the chief executive officer appointed under subsection (2) may be the secretary and may be the treasurer. Idem

Regular
meetings

16.—(1) A board shall hold regular meetings at least once monthly from January to June and from September to December, both inclusive, and at such other times as it considers necessary.

Special
meetings

(2) The chairman or any two members of a board may summon a special meeting of the board by giving each member reasonable notice in writing, specifying the purpose for which the meeting is called.

Open
meetings:
exception

(3) Despite any other Act, board meetings shall be open to the public, except that where the board is of the opinion that intimate financial or personal matters may be disclosed at a meeting and that the desirability of protecting against the consequences of their public disclosure outweighs the desirability of holding the meeting in public, the board may hold that meeting in the absence of the public.

Excluding
person

(4) Despite subsection (3), the chairman may exclude any person from a meeting for improper conduct.

Quorum

(5) The presence of a majority of the board is necessary for the transaction of business at a meeting.

Voting

(6) The chairman or acting chairman of a board may vote with the other members of the board upon all questions, and any question on which there is an equality of votes shall be deemed to be negative.

Language

R.S.O. 1980,
c. 302

17. A board may conduct its meetings in English or French or in both English and French, and subsections 104a (1), (4), (5), (6) and (7) of the *Municipal Act* apply to a board with necessary modifications.

Expenses

18. A board may reimburse its members for proper travelling and other expenses incurred in carrying out their duties as members.

Real
property

19.—(1) A board may, with the consent of the appointing council or, where it is a union board, the consent of a majority of the councils of the municipalities for which it was established,

(a) acquire land required for its purposes by purchase, lease, expropriation or otherwise;

(b) erect, add to or alter buildings;

- (c) acquire or erect a building larger than is required for library purposes, and lease any surplus part of the building; and
- (d) sell, lease or otherwise dispose of any land or building that is no longer required for the board's purposes.

(2) The *Expropriations Act* applies to the expropriation of land under subsection (1).

Application
of
R.S.O. 1980,
c. 148

20. A board,

Powers and
duties of
board

- (a) shall seek to provide, in co-operation with other boards, a comprehensive and efficient public library service that reflects the community's unique needs;
- (b) shall seek to provide library services in the French language, where appropriate;
- (c) shall operate one or more libraries and ensure that they are conducted in accordance with this Act and the regulations;
- (d) may operate special services in connection with a library as it considers necessary;
- (e) shall fix the times and places for board meetings and the mode of calling and conducting them, and ensure that full and correct minutes are kept;
- (f) shall make an annual report to the Minister and make any other reports required by this Act and the regulations or requested by the Minister from time to time;
- (g) shall make provision for insuring the board's real and personal property;
- (h) shall take proper security for the treasurer; and
- (i) may appoint such committees as it considers expedient.

21. A county library board shall operate a branch library in each local municipality that operated a public library before that municipality became part of the county library system, unless the county council and the council of the municipality concerned agree otherwise.

Operation
of branch
libraries
by county
library
board

Retirement
allowances

R.S.O. 1980,
c. 302

22.—(1) A board may, with the approval of the appointing council or councils, grant an annual retirement allowance to an employee in accordance with section 100 of the *Municipal Act*, and that section applies with necessary modifications.

Pensions

R.S.O. 1980,
c. 302

(2) A board may, by resolution, provide pensions for employees or any class of them and their surviving spouses and children in the manner and subject to the conditions set out in paragraph 46 of section 208 of the *Municipal Act*, and that paragraph applies with necessary modifications.

Sick leave
credits

R.S.O. 1980,
c. 302

(3) A board may, by resolution, establish a system of sick leave credit gratuities for employees or any class of them in the manner and subject to the conditions set out in paragraph 47 of section 208 of the *Municipal Act*, and that paragraph applies with necessary modifications.

Libraries
to be
open to
public

23.—(1) A board shall not make a charge for admission to a public library or for use in the library of the library's materials.

Certain
library
services
free

(2) Every board shall allow the public to,

- (a) reserve and borrow circulating materials that are prescribed or belong to a prescribed class; and
- (b) use reference and information services as the board considers practicable,

without making any charge.

Fees

(3) A board may impose such fees as it considers proper for,

- (a) services not referred to in subsections (1) and (2);
- (b) the use of the parts of a building that are not being used for public library purposes; and
- (c) the use of library services by persons who do not reside in the area of the board's jurisdiction.

Rules

(4) Subject to the regulations, a board may make rules,

- (a) for the use of library services;
- (b) for the admission of the public to the library;

- (c) for the exclusion from the library of persons who behave in a disruptive manner or cause damage to library property;
- (d) imposing fines for breaches of the rules;
- (e) suspending library privileges for breaches of the rules; and
- (f) regulating all other matters connected with the management of the library and library property.

24.—(1) A public library board, county library board or county library co-operative board shall submit to the appointing council, annually on or before the date and in the form specified by the council, estimates of all sums required during the year for the purposes of the board. Estimates

(2) The amount of the board's estimates that is approved or amended and approved by the council shall be adopted by the board and shall be paid to the board out of the moneys appropriated for it. Approval of estimates

(3) The board shall apply the money paid to it under subsection (2) in accordance with the estimates as approved, subject to subsection (4). Idem

(4) The council may, in its approval of the board's estimates or at any time at the board's request, authorize the board to apply a specified amount or percentage of the money paid to it under subsection (2) otherwise than in accordance with the items of the estimates as approved. Council may authorize variation

(5) A union board shall submit its estimates to each of the councils of the municipalities for which the board was established, and subsections (1), (2), (3) and (4) apply to the union board with necessary modifications. Idem: union board

(6) A union board shall submit with its estimates a statement as to the proportion of the estimates that is to be charged to each of the municipalities, and if the estimates of the board are approved or amended and approved by the councils of the municipalities representing more than one-half of the population of the area for which the board was established, they are binding on all the municipalities. Where two or more municipalities concerned

(7) A public library board, county library board or county library co-operative board shall submit its annual financial Audited financial statements

R.S.O. 1980,
c. 302

statements, audited by a person appointed under section 88 of the *Municipal Act*, to the council annually on or before the date specified by the council.

Idem: union
board

(8) A union board shall submit its annual financial statements to each of the councils of the municipalities for which the board was established, and subsection (7) applies to the union board with necessary modifications.

Debentures
for library
purposes

25.—(1) Subject to the approval of the Ontario Municipal Board, the sums required by a public library board or union board for the purposes of acquiring land, for building, erecting or altering a building or for acquiring books and other things required for a newly established library may, on the application of the board, be raised by the issue of municipal debentures.

Application
to council

(2) The board's application shall be made to the council or councils of the municipality or municipalities for which the board was established.

Council
to deal
with
application

(3) The council or, if more than one, each of the councils, at the first meeting after receiving the application or as soon thereafter as possible, shall consider and approve or disapprove it, and if a vote in any council results in a tie, the application shall be deemed to be disapproved by the council.

Issue of
debentures

(4) If the council, or a majority of the councils where there are more than one, approves the application and the Ontario Municipal Board approves it, the council of the municipality or, if more than one, the council of the municipality that has the greatest population shall raise the sum required by the issue of debentures in the manner provided by the *Municipal Act*, or, if it so desires, the council of any municipality may raise its proportion of the sum required by the issue of its own debentures.

R.S.O. 1980,
c. 302

Library
estimates
included
in county
estimates
R.S.O. 1980,
c. 302

26.—(1) The amount estimated by a county library board to meet its operating costs, as approved by the council, shall be included in the amount required by the county for general county purposes under subsection 164 (1) of the *Municipal Act*, and shall be apportioned among the municipalities forming part of the county for municipal purposes, unless not all those municipalities participate in the county library, in which case the county council shall by by-law apportion the amount estimated by the county library board among the participating municipalities.

Accommo-
dation
may be pro-
vided by
local
municipality

(2) The council of one or more participating municipalities may, at the request of the county library board, rent accom-

modation to the board and may, subject to the approval of the Ontario Municipal Board, issue municipal debentures for the cost of constructing a building for the board's purposes, but the ownership of the building shall remain with the municipality unless the board and the council of the municipality agree otherwise.

27. The council of any municipality or county may make a grant in money, lands or buildings to a board. Grant from council

28.—(1) A person may, during ordinary business hours, inspect any records, books, accounts and documents in the possession or control of a board's secretary. Inspection of records

(2) Subsection (1) does not apply to information that, Exception

- (a) in the secretary's opinion, is of an intimate financial or personal nature; or
- (b) identifies an individual user of library services by name or makes him or her readily identifiable by other means.

29.—(1) The council of a municipality, a local service board, the council of an Indian band or the trustees of an improvement district may, instead of establishing or maintaining a public library, enter into a contract with a public library board, union board or county library board, or, where subsection 34 (2) applies, with the Ontario library service board that has jurisdiction, for the purpose of providing the residents of the municipality or local service board area or the members of the band, as the case may be, with library services, on the terms and conditions set out in the agreement. Contract for library services

(2) The council, local service board, band council or trustees entering into a contract under subsection (1) shall make an annual financial report to the Minister and make any other reports required by this Act and the regulations or requested by the Minister. Annual report to Minister

30.—(1) The Minister shall make a grant to every board out of legislative appropriations for library purposes, on the prescribed conditions. Payments to boards

(2) The Minister shall make a grant out of legislative appropriations for library purposes to every municipality, local service board, Indian band or improvement district that has a contract for library services under subsection 29 (1), on the prescribed conditions. Idem: where municipality, etc., has contract for library services

Idem:
library of
regional
municipality

(3) Where a regional municipality has established a public library board, the Minister shall make a grant to the board out of legislative appropriations for library purposes as if it were a board under this Part.

Idem:
library of
Indian band
or local
service
board

(4) Where the council of an Indian band or a local service board has established a public library, the Minister shall make a grant to the Indian band or local service board out of legislative appropriations for library purposes as if it were a board under this Part.

PART II

ONTARIO LIBRARY SERVICE

Establishment,
etc., of
Ontario library
service areas

31. The Minister may establish and locate Ontario library service areas throughout Ontario, may determine and may from time to time alter the boundaries of an Ontario library service area and may dissolve an Ontario library service area.

Regional
library
systems
dissolved

32.—(1) Every regional library system established for a region under a predecessor of this Act that was being operated immediately before the day this Part comes into force is dissolved and,

- (a) where the region lies entirely within the boundaries of an Ontario library service area, the assets and liabilities of the regional library system are vested in and assumed by the board of the Ontario library service area; or
- (b) where two or more Ontario library service areas are established in the region, the assets and liabilities of the regional library system shall be apportioned among the boards of the Ontario library service areas as the Minister directs.

Fiscal
year

(2) The fiscal year of an Ontario library service area begins on the 1st day of April in each year and ends on the 31st day of March in the following year.

Board

33.—(1) An Ontario library service area shall be under the jurisdiction of a board, which is a corporation known as “The (*insert name specified by the Minister*) Ontario Library Service Board”.

Composition
of board

(2) A board shall consist of,

- (a) one member appointed by the public library board for every municipality within the Ontario library

service area that has a population of 15,000 or more;

- (b) one member appointed by the county library board for every county within the Ontario library service area; and
- (c) if the number of members appointed under clauses (a) and (b) is,
 - (i) less than nine, a number of additional members appointed by the Minister that brings the number of members to a total not exceeding nine, or
 - (ii) nine or more, a number of additional members appointed by the Minister that does not exceed one less than the number appointed under clauses (a) and (b).

(3) The Minister or the Minister's delegate shall arrange for appointments to a board and shall call the first meeting of a board in a fiscal year.

First meeting, etc.

(4) A board member shall hold office until the last day of the fiscal year in which he or she is appointed, or until a successor is appointed, whichever is longer, and may be reappointed for one or more further terms.

Term of office

(5) Where a vacancy arises in the membership of the board, the appointing public library board or county library board or the Minister, as the case may be, may appoint a person to fill the vacancy and to hold office for the unexpired term.

Vacancies

34.—(1) The objects of a board are to deliver programs and services on behalf of the Minister by,

Objects of board

- (a) increasing co-operation and co-ordination among public library boards and other information providers in order to promote the provision of library services to the public; and
- (b) assisting public library boards by providing them with services and programs that reflect their needs, including consultation, training and development services.

(2) The board of an Ontario library service area designated by the Minister as a northern Ontario library service area may provide library services directly, whether under a contract

Direct library service in northern Ontario

with the council of a municipality, a local service board, the council of an Indian band or the trustees of an improvement district in the Ontario library service area as described in subsection 29 (1) or otherwise.

Powers of
board

35.—(1) A board has the powers necessary or convenient to achieve its objects and, without limiting the generality of the foregoing, may,

- (a) subject to clause (2) (a), make by-laws and rules for the administration of its affairs;
- (b) appoint any person by resolution to execute documents on behalf of the board and to affix the board's seal to them;
- (c) appoint such committees as it considers expedient; and
- (d) enter into agreements with public library boards, union library boards and county library boards.

Duties of
board

(2) A board shall,

- (a) conduct its affairs in accordance with the administrative policies and procedures determined by the Minister;
- (b) fix the times and places for board meetings and the mode of calling them, and ensure that proper minutes are kept;
- (c) make an annual report to the Minister and make any other reports requested by the Minister;
- (d) make provision for insuring the board's real and personal property; and
- (e) take proper security for the treasurer.

Estimates

36.—(1) In each fiscal year the board shall submit to the Minister, in the form and on or before the day specified by the Minister, estimates of all sums required during the year for the area's purposes.

Approval
of
estimates

(2) The amount of the board's estimates that is approved by the Minister shall be adopted by the board and shall be paid to the board out of legislative appropriations for library purposes in the amounts, at the times and on the terms and conditions that the Minister considers proper.

37. A board shall submit to the Minister,

Financial
reports, etc.

- (a) in each fiscal year, its audited financial statements and descriptions of its programs and activities; and
- (b) such further information as the Minister requests from time to time.

38. Subsection 10 (1) and sections 13 to 18, except subsections 14 (1) and 16 (1), apply to a board with necessary modifications.

Application
of general
provisions

PART III

GENERAL

39. The Lieutenant Governor in Council may make regulations,

Regulations

- (a) providing for the distribution of all moneys appropriated by the Legislature for library purposes;
- (b) prescribing the conditions governing the payments of grants;
- (c) respecting the establishment, organization, management, premises and rules of public libraries;
- (d) prescribing circulating materials or classes of circulating materials for the purpose of clause 23 (2) (a) (free library services).

40.—(1) The Minister may establish special library service boards to provide the resources and services that the Minister specifies and may make grants to special library service boards out of legislative appropriations for library purposes.

Special
library
service
boards

(2) Section 37 applies to a special library service board with necessary modifications.

s. 37
applies

(3) The Metropolitan Toronto Library Board, as continued by subsection 148 (1) of the *Municipality of Metropolitan Toronto Act*, shall be deemed to be a special library service board and may provide library resources and services to the Ontario library community.

Metropolitan
Toronto
Library
Board
R.S.O. 1980,
c. 314

41. Where a board in any fiscal year fails to comply with this Act or the regulations, the Minister may withhold the whole or any part of the legislative grant that would otherwise be payable to the board for that year.

Withholding
grant on
default of
board

Dissolution
by Minister

42.—(1) The Minister may dissolve a public library board, a union board, a county library board or a county library co-operative board where the board has not, during the two year period immediately preceding the dissolution, maintained and operated a library.

Idem

(2) The Minister may dissolve an Ontario library service board where the Ontario library service area under its jurisdiction has been dissolved.

Assets and
liabilities
of dissolved
board

(3) Where a board is dissolved under subsection (1), its assets and liabilities are vested in and assumed by the municipality or county or, in the case of a union board, are distributed as the Minister directs among the municipalities for which the union board was established.

Idem

(4) Where a board is dissolved under subsection (2), its assets and liabilities are vested in and assumed by the Crown in right of Ontario.

Repeal

43. The *Public Libraries Act*, being chapter 414 of the Revised Statutes of Ontario, 1980, is repealed.

44. Subsection 148 (7) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is amended by striking out “board of a regional library system” in the third line and inserting in lieu thereof “special library services board”.

Commence-
ment

45. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

46. The short title of this Act is the *Public Libraries Act*, 1984.

Bill 94



**An Act to amend the
Grain Elevator Storage Act, 1983**

Mr. Swart

1st Reading June 7th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill is intended to ensure that producers retain title until they receive their money for farm produce sold to, or through the agency of, grain elevator operators. The Bill also provides for detailed monthly reports to the chief inspector by grain elevator operators.

Bill 94

1984

An Act to amend the Grain Elevator Storage Act, 1983

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 17 of the *Grain Elevator Storage Act, 1983*, being chapter 40, is repealed and the following substituted therefor:

17.—(1) An agreement to sell shall be in the form prescribed by the regulations. Agreement to sell

(2) Where farm produce is in storage and is subject to an agreement to sell, the property in and title to the farm produce remains in the owner thereof until payment of the price agreed upon has been made to the owner by the grain elevator operator. Property in and title to farm produce

(3) Where the owner of farm produce in storage has sold the farm produce through the grain elevator operator as his agent to any other person, the grain elevator operator shall not release the farm produce to that other person until payment of the price agreed upon has been made to the owner by the grain elevator operator. Payment

(4) Where the owner of farm produce which is not in storage has sold the farm produce to the grain elevator operator or through the grain elevator operator as his agent to any other person, the property in and title to the farm produce remains in the owner thereof until payment of the price agreed upon has been made to the owner by the grain elevator operator. Idem

(5) Notwithstanding anything in this Act, where the owner of farm produce in storage agrees to sell the farm produce on option, payment to the owner by the grain elevator operator, on the day in which the farm produce is sold, of such percentage of the market price on that day as is prescribed by the Sale on option

regulations is deemed to be due compensation for the purposes of clause 1 (k).

(6) For the purposes of subsections (2), (3), (4) and (5), payment has been made to the owner by the grain elevator operator only if,

- (a) the owner receives payment in cash or certified cheque;
- (b) the owner receives payment by cheque drawn on a financial institution and does not advise the grain elevator operator within ten days of the date the cheque was drawn that the cheque has been dishonoured; or
- (c) the owner receives payment in a manner mutually agreed upon and set out in a written agreement signed by the owner and the grain elevator operator.

2. The said Act is amended by adding thereto the following section:

Monthly
report
by grain
elevator
operator

18a. Every grain elevator operator shall make a monthly report, in the form prescribed by the regulations, setting out,

- (a) details of all weigh tickets and grain storage receipts that are outstanding on the last day of the month; and
- (b) the amount of farm produce that is actually in storage in the operator's grain elevator on the last day of the month,

and shall submit the report to the chief inspector on or before the tenth day of the month following the month for which the report is made.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Grain Elevator Storage Amendment Act, 1984*.

Bill 95

Private Member's Bill

4TH SESSION, 32ND LEGISLATURE, ONTARIO

33 ELIZABETH II, 1984

Bill 95



An Act to amend the Landlord and Tenant Act

Mr. Ruprecht

1st Reading June 7th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill is intended to prevent landlords from evicting tenants in order to convert rented residential premises into temporary or hotel accommodation.

Bill 95

1984

An Act to amend the Landlord and Tenant Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 107 of the *Landlord and Tenant Act*, being chapter 232 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1983, chapter 24, section 1, is further amended by adding thereto the following subsection:

(8) A judge hearing an application under section 113 brought by a landlord under subsection (4) shall not direct the issue of a writ of possession where, Where writ to be refused

(a) the notice of termination was given under clause (1) (b); and

(b) it appears that the landlord intends to use the residential premises for hotel purposes or as transient living accommodation.

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. The short title of this Act is the *Landlord and Tenant Amendment Act, 1984*. Short title

Bill 96



An Act to amend the Residential Tenancies Act

Mr. Ruprecht

1st Reading June 7th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill is intended to prevent conversions of rental residential units to transient living accommodation that are undertaken primarily to exclude the units from the rent review process. It would also provide a procedure for setting the rent of a unit that has remained vacant for a year when there is no similar rental unit in the same residential complex.

Bill 96

1984

An Act to amend the Residential Tenancies Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 4 (a) of the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (a) transient living accommodation provided in a *bona fide* hotel, motel, inn, tourist home or hostel, if the applicable zoning by-law permits the provision of such accommodation.

2. The said Act is amended by adding thereto the following section:

4a. Despite clause 4 (a), where this Act applies to a rental unit and the landlord proposes to convert the use of the rental unit to transient living accommodation as referred to in clause 4 (a), this Act continues to apply to the rental unit until the Commission makes an order, upon the landlord's application, declaring that the proposed use comes under the exemption provided by clause 4 (a).

Conversion
to
transient
accommo-
dation

3. Section 128 of the said Act is amended by adding thereto the following subsection:

(2) Where subsection (1) applies to a rental unit and there is no similar rental unit in the residential complex,

Idem

- (a) the rent charged for the rental unit shall not exceed the last rent charged for the rental unit for an equivalent rental period by more than 6 per cent unless the Commission orders otherwise under section 131; and
- (b) the landlord may apply to the Commission for an order under section 131, and section 126 applies with necessary modifications.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Residential Tenancies Amendment Act, 1984*.

21

Bill 97

Private Member's Bill

4TH SESSION, 32ND LEGISLATURE, ONTARIO

33 ELIZABETH II, 1984

Bill 97



An Act to amend the Labour Relations Act

Mr. Haggerty

1st Reading June 8th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to provide a mechanism whereby the Lieutenant Governor in Council can order a sixty-day suspension of a strike or lock-out and order a return to work where the strike or lock-out constitutes an immediate and serious danger to life, health or safety or seriously disrupts the economy of the Province or any area of the Province.

The Bill provides that the Minister of Labour must appoint a conciliation officer where an order suspending a strike or lock-out has been made and may subsequently appoint a conciliation board where the efforts of the conciliation officer to effect a collective agreement are unsuccessful.

If conciliation efforts are unsuccessful, the strike or lock-out may be resumed without a further strike vote.

An order made under the Bill would be enforceable as an order of the Supreme Court.

Bill 97

1984

An Act to amend the Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 17 of the *Labour Relations Act*, being chapter 228 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

(3) This section does not apply where an order has been made under subsection 55a (1). Application

2. The said Act is amended by adding thereto the following section:

SUSPENSION OF STRIKES OR LOCK-OUTS

55a.—(1) Where during a strike or lock-out the Lieutenant Governor in Council is of the opinion that the strike or lock-out, Lieutenant Governor in Council may by order suspend a strike or lock-out and order a return to work

- (a) constitutes an immediate and serious danger to life, health or safety; or
- (b) seriously disrupts the economy of the Province or any area of the Province,

the Lieutenant Governor in Council may order,

- (c) a suspension of the strike or lock-out and a return to work for a period not exceeding sixty days in length, commencing on the day next following the date of the order; or
- (d) a suspension of the strike or lock-out in respect of designated facilities and services that the Lieutenant Governor in Council determines are necessary or essential to prevent immediate and serious danger to life, health or safety and a return to work with respect to such facilities and services for a period

not exceeding sixty days in length, commencing on the day next following the date of the order.

Appointment
of concil-
iation officer
and concil-
iation board

(2) Where an order is made under clause (1) (c) or (d), the Minister shall appoint a conciliation officer and may subsequently appoint a conciliation board and sections 18 to 32 apply with necessary modifications to such appointments.

Resumption
of strike
or lock-out

(3) The parties may resume the strike or lock-out when,

- (a) the Minister gives a notice to the parties under clause 19 (b);
- (b) a conciliation board report is released under subsection 32 (5); or
- (c) the order made under subsection (1) expires,

whichever occurs first.

Enforcement
of orders

(4) The Minister may file in the office of the Registrar of the Supreme Court a copy of an order made under subsection (1), in the prescribed form, whereupon the order shall be entered in the same way as a judgment or order of that court and is enforceable by the Minister or by a trade union or employer affected as a judgment or order of that court.

Limitation
on orders

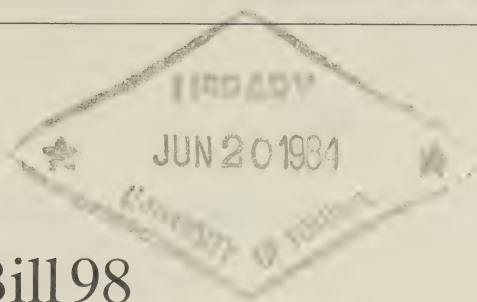
(5) The Lieutenant Governor in Council shall not make an order under subsection (1) more than once in respect of the same dispute.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Labour Relations Amendment Act, 1984*.



Bill 98

An Act to relieve Persons from Liability in respect of voluntary Emergency Medical and First Aid Services

Mr. Haggerty

1st Reading June 8th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of this Bill is to relieve persons from liability in respect of voluntary emergency first aid assistance or medical services rendered at or near the scene of an accident or other sudden emergency.

Bill 98

1984

**An Act to relieve Persons from Liability
in respect of voluntary Emergency
Medical and First Aid Services**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) “physician” means a medical practitioner licensed under Part III of the *Health Disciplines Act*;
- (b) “registered nurse” means a person who is the holder of a certificate as a registered nurse issued under Part IV of the *Health Disciplines Act*.

R.S.O. 1980,
c. 196

2. Where, in respect of a person who is ill, injured or unconscious as the result of an accident or other emergency,

Relief
from
liability
for
damages

- (a) a physician or registered nurse voluntarily and without expectation of compensation or reward renders emergency medical services or first aid assistance and the services or assistance are not rendered at a hospital or other place having adequate medical facilities and equipment; or
- (b) a person other than a person mentioned in clause (a) voluntarily renders emergency first aid assistance and the assistance is rendered at the immediate scene of the accident or emergency,

the physician, registered nurse or other person shall not be liable for damages for injuries to or the death of such person alleged to have been caused by an act or omission on his or her part in rendering the medical services or first aid assistance, unless it is established that the injuries or death were caused by the gross negligence of the physician, registered nurse or other person.

Act does
not apply
to normal
medical
services

3. Nothing in section 2 shall be construed to relieve a physician from liability for damages for injuries to or the death of any person caused by an act or omission on the part of the physician in respect of medical services rendered by him in the normal and ordinary course of his practice and not under the circumstances set forth in section 2.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

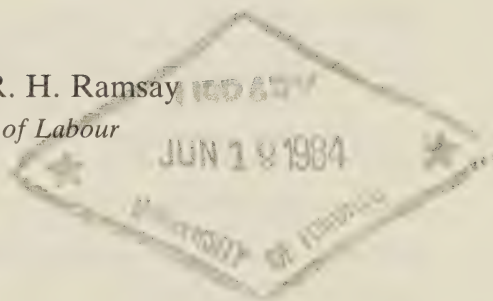
Short title

5. The short title of this Act is the *Good Samaritan Act, 1984*.

Bill 99

An Act to amend the Workers' Compensation Act

The Hon. R. H. Ramsay
Minister of Labour



1st Reading June 12th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1.—Subsection 1. Subsection 36 (1) of the Act sets out a scale of compensation to be paid where an injury results in death. The proposed amendment increases the amounts payable under subsection 36 (1) as follows:

1. Under clause (a), the burial allowance is increased from \$1,400 to \$1,500.
2. Payments to a dependent widow or widower are increased from \$564 per month to \$593 effective the 1st day of July, 1984.
3. Where the dependent widow or widower has one or more children, the additional monthly payment for each child under the age of sixteen years is increased from \$157 per month to \$165 effective the 1st day of July, 1984. The amount payable to a child upon the death of the widow or widower is increased by the amounts set out in paragraph 4.
4. The payment for dependent children under the age of sixteen years is increased from \$176 per month to \$185 effective the 1st day of July, 1984.

Subsections 2, 3, 4. Self-explanatory.

SECTION 2.—Subsection 1. The lump sum payment under subsection 36 (6) of the Act is increased from \$1,400 to \$1,500.

Subsection 2. Self-explanatory.

SECTION 3. The amount payable for permanent disability under section 43 of the Act is increased by 5 per cent.

SECTION 4.—Subsection 1. The minimum amount of compensation payable for temporary total disability is increased from \$179 per week to \$188 per week effective the 1st day of July, 1984, where the average earnings of the injured worker were not less than \$188.

The minimum amount payable for permanent total disability is increased from \$786 per month to \$826 from the 1st day of July, 1984.

Subsection 2. Self-explanatory.

SECTION 5.—Subsection 1. The earnings ceiling is increased from \$25,500 to \$26,800.

Subsection 2. Self-explanatory.

SECTION 6.—Subsection 1. The allowance for the repair and replacement of clothing worn or damaged by a lower limb prosthesis or back brace is increased from \$332 to \$350 and by an upper limb prosthesis from \$166 to \$175.

Subsection 2. Self-explanatory.

Bill 99

1984

An Act to amend the Workers' Compensation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clauses 36 (1) (a), (c), (d), (e) and (f) of the *Workers' Compensation Act*, being chapter 539 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1983, chapter 45, section 1, are repealed and the following substituted therefor:

- (a) the necessary expenses of the burial or cremation of the worker, not exceeding \$1,500;
-
- (c) where the widow or widower is the sole dependant, a monthly payment of \$593, effective the 1st day of July, 1984;
- (d) where the dependants are a widow or widower and one or more children, a monthly payment of \$593 with an additional monthly payment of \$165 to be increased upon the death of the widow or widower to \$185 for each child under the age of sixteen years, effective the 1st day of July, 1984;
- (e) where the dependants are children, for each child under the age of sixteen years, a monthly payment of \$185, effective the 1st day of July, 1984;
- (f) where there are dependants other than those mentioned in clauses (c), (d) and (e), and there are no dependants who are persons referred to in the said clauses, a sum reasonable and proportionate to the pecuniary loss to such first-mentioned dependants occasioned by the death, to be determined by the Board, but not exceeding, in the whole, \$593 a month effective the 1st day of July, 1984.

(2) Clause 36 (1) (a) of the said Act, as re-enacted by subsection (1) of this section, applies only where the death occurs on or after the 1st day of July, 1984.

(3) Clauses 36 (1) (c), (d), (e) and (f) of the said Act, as re-enacted by subsection (1) of this section, apply to payments accruing on or after the 1st day of July, 1984, but nothing therein entitles any person to claim additional compensation for any period prior to the 1st day of July, 1984.

(4) The amounts payable under clauses 36 (1) (c), (d), (e) and (f) of the said Act, as re-enacted by subsection (1) of this section, do not apply to a lump sum award or to payments due prior to the 1st day of July, 1984.

2.—(1) Subsection 36 (6) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 45, section 2, is repealed and the following substituted therefor:

Payment of
lump sum

(6) In addition to any other compensation provided for, the widow or widower, or where the worker leaves no widow or widower, the person described in subsection (5), is entitled to a lump sum of \$1,500.

(2) Subsection 36 (6) of the said Act, as re-enacted by subsection (1) of this section, applies only where the death occurs on or after the 1st day of July, 1984.

3. Subsection 43 (8) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 45, section 4, is repealed and the following substituted therefor:

Increase
in payments

(8) The amounts payable under this section shall be increased if the injury occurred on or before the 30th day of June, 1984 by adding thereto a factor of 5 per cent effective the 1st day of July, 1984.

Limitation
under this
section

(9) The amount of compensation to which a worker is entitled shall not exceed the like proportion of 75 per cent of the rate of average earnings of \$26,800 effective on the 1st day of July, 1984 for amounts accruing on and after the 1st day of July, 1984.

Application

(10) Subsections (8) and (9) do not apply to an award that was previously commuted or paid as a lump sum under subsection (4), an award under subsection (6) or an award under clause 44 (b).

4.—(1) Section 44 of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 45, section 5, is repealed and the following substituted therefor:

44. Notwithstanding anything to the contrary in this Part, the amount of compensation to which an injured worker is entitled shall not be less than, Minimum
amount of
compensation

(a) for temporary total disability,

(i) \$188 a week, where the worker's average earnings were not less than \$188 a week, from the 1st day of July, 1984, and

(ii) the amount of the worker's earnings, where the worker's average earnings are less than \$188 a week, from the 1st day of July, 1984,

and for temporary partial disability, a proportionate amount in accordance with the impairment of earning capacity; and

(b) for permanent disability, the pension computed in accordance with sections 43 and 45, but the amount of such pension shall not be less than,

(i) for permanent total disability, \$826 a month from the 1st day of July, 1984, and

(ii) for permanent partial disability, an amount proportionate to that mentioned in subclause (i) in accordance with the impairment of earning capacity; or

(c) alternatively to subclause (b) (i), for permanent total disability, the benefits which would have been payable from time to time under clauses 36 (1) (c), (d) and (e) and under section 38, as if the worker had died from the injury.

(2) Section 44 of the said Act, as re-enacted by subsection (1) of this section, applies to accidents occurring on or after the 1st day of July, 1984, but nothing therein entitles a person to claim additional compensation for any period prior to the 1st day of July, 1984.

5.—(1) Subsection 45 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 45, section 6, is repealed and the following substituted therefor:

How average
earnings to
be computed

(1) Average earnings shall be computed in such a manner as is best calculated to give the rate per week or month at which the worker was remunerated but not so as in any case to exceed the rate of \$26,800 per annum.

(2) Subsection 45 (1) of the said Act, as re-enacted by subsection (1) of this section, applies to accidents occurring on or after the 1st day of July, 1984, to benefits arising under section 42 of the said Act and to benefits arising under section 43 of the said Act, as amended by section 3 of this Act, but does not apply to a commutation lump sum award previously made, including an award under subsection 43 (4) or to an award under subsection 43 (6) or to an award under clause 44 (b) of the said Act, and nothing in subsection (1) of this section entitles any person to claim additional compensation for any period prior to the 1st day of July, 1984.

6.—(1) Clause 52 (3) (b) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 45, section 7, is repealed and the following substituted therefor:

- (b) on application, an allowance not exceeding \$350 a year for the replacement or repair of clothing worn or damaged by reason of the wearing of a lower limb prosthesis or a back brace for a permanent back disability or a permanent leg brace, and not exceeding \$175 a year in respect of an upper limb prosthesis where the lower or upper limb prosthesis, back brace or permanent leg brace is supplied by the Board,

(2) Clause 52 (3) (b) of the said Act, as re-enacted by subsection (1) of this section, applies to payments accruing on and after the 1st day of July, 1984, but nothing therein entitles any person to claim additional payment for any period prior to the 1st day of July, 1984.

Commence-
ment

7. This Act comes into force on the 1st day of July, 1984.

Short title

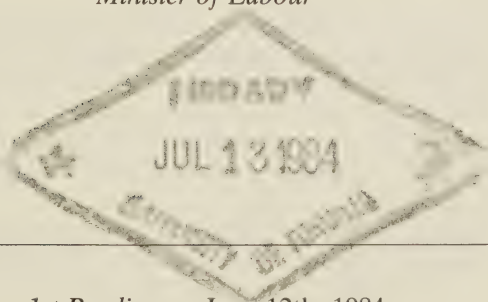
8. The short title of this Act is the *Workers' Compensation Amendment Act, 1984*.

Bill 99

(Chapter 38
Statutes of Ontario, 1984)

An Act to amend the Workers' Compensation Act

The Hon. R. H. Ramsay
Minister of Labour



<i>1st Reading</i>	June 12th, 1984
<i>2nd Reading</i>	June 20th, 1984
<i>3rd Reading</i>	June 22nd, 1984
<i>Royal Assent</i>	June 27th, 1984

Bill 99**1984****An Act to amend the Workers' Compensation Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clauses 36 (1) (a), (c), (d), (e) and (f) of the *Workers' Compensation Act*, being chapter 539 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1983, chapter 45, section 1, are repealed and the following substituted therefor:

- (a) the necessary expenses of the burial or cremation of the worker, not exceeding \$1,500;
-
- (c) where the widow or widower is the sole dependant, a monthly payment of \$593, effective the 1st day of July, 1984;
- (d) where the dependants are a widow or widower and one or more children, a monthly payment of \$593 with an additional monthly payment of \$165 to be increased upon the death of the widow or widower to \$185 for each child under the age of sixteen years, effective the 1st day of July, 1984;
- (e) where the dependants are children, for each child under the age of sixteen years, a monthly payment of \$185, effective the 1st day of July, 1984;
- (f) where there are dependants other than those mentioned in clauses (c), (d) and (e), and there are no dependants who are persons referred to in the said clauses, a sum reasonable and proportionate to the pecuniary loss to such first-mentioned dependants occasioned by the death, to be determined by the Board, but not exceeding, in the whole, \$593 a month effective the 1st day of July, 1984.

(2) Clause 36 (1) (a) of the said Act, as re-enacted by subsection (1) of this section, applies only where the death occurs on or after the 1st day of July, 1984.

(3) Clauses 36 (1) (c), (d), (e) and (f) of the said Act, as re-enacted by subsection (1) of this section, apply to payments accruing on or after the 1st day of July, 1984, but nothing therein entitles any person to claim additional compensation for any period prior to the 1st day of July, 1984.

(4) The amounts payable under clauses 36 (1) (c), (d), (e) and (f) of the said Act, as re-enacted by subsection (1) of this section, do not apply to a lump sum award or to payments due prior to the 1st day of July, 1984.

2.—(1) Subsection 36 (6) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 45, section 2, is repealed and the following substituted therefor:

Payment of
lump sum

(6) In addition to any other compensation provided for, the widow or widower, or where the worker leaves no widow or widower, the person described in subsection (5), is entitled to a lump sum of \$1,500.

(2) Subsection 36 (6) of the said Act, as re-enacted by subsection (1) of this section, applies only where the death occurs on or after the 1st day of July, 1984.

3. Subsection 43 (8) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 45, section 4, is repealed and the following substituted therefor:

Increase
in payments

(8) The amounts payable under this section shall be increased if the injury occurred on or before the 30th day of June, 1984 by adding thereto a factor of 5 per cent effective the 1st day of July, 1984.

Limitation
under this
section

(9) The amount of compensation to which a worker is entitled shall not exceed the like proportion of 75 per cent of the rate of average earnings of \$26,800 effective on the 1st day of July, 1984 for amounts accruing on and after the 1st day of July, 1984.

Application

(10) Subsections (8) and (9) do not apply to an award that was previously commuted or paid as a lump sum under subsection (4), an award under subsection (6) or an award under clause 44 (b).

4.—(1) Section 44 of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 45, section 5, is repealed and the following substituted therefor:

44. Notwithstanding anything to the contrary in this Part, the amount of compensation to which an injured worker is entitled shall not be less than, Minimum
amount of
compensation

(a) for temporary total disability,

- (i) \$188 a week, where the worker's average earnings were not less than \$188 a week, from the 1st day of July, 1984, and
- (ii) the amount of the worker's earnings, where the worker's average earnings are less than \$188 a week, from the 1st day of July, 1984,

and for temporary partial disability, a proportionate amount in accordance with the impairment of earning capacity; and

(b) for permanent disability, the pension computed in accordance with sections 43 and 45, but the amount of such pension shall not be less than,

- (i) for permanent total disability, \$826 a month from the 1st day of July, 1984, and
- (ii) for permanent partial disability, an amount proportionate to that mentioned in subclause (i) in accordance with the impairment of earning capacity; or

(c) alternatively to subclause (b) (i), for permanent total disability, the benefits which would have been payable from time to time under clauses 36 (1) (c), (d) and (e) and under section 38, as if the worker had died from the injury.

(2) Section 44 of the said Act, as re-enacted by subsection (1) of this section, applies to accidents occurring on or after the 1st day of July, 1984, but nothing therein entitles a person to claim additional compensation for any period prior to the 1st day of July, 1984.

5.—(1) Subsection 45 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 45, section 6, is repealed and the following substituted therefor:

How average
earnings to
be computed

(1) Average earnings shall be computed in such a manner as is best calculated to give the rate per week or month at which the worker was remunerated but not so as in any case to exceed the rate of \$26,800 per annum.

(2) Subsection 45 (1) of the said Act, as re-enacted by subsection (1) of this section, applies to accidents occurring on or after the 1st day of July, 1984, to benefits arising under section 42 of the said Act and to benefits arising under section 43 of the said Act, as amended by section 3 of this Act, but does not apply to a commutation lump sum award previously made, including an award under subsection 43 (4) or to an award under subsection 43 (6) or to an award under clause 44 (b) of the said Act, and nothing in subsection (1) of this section entitles any person to claim additional compensation for any period prior to the 1st day of July, 1984.

6.—(1) Clause 52 (3) (b) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 45, section 7, is repealed and the following substituted therefor:

(b) on application, an allowance not exceeding \$350 a year for the replacement or repair of clothing worn or damaged by reason of the wearing of a lower limb prosthesis or a back brace for a permanent back disability or a permanent leg brace, and not exceeding \$175 a year in respect of an upper limb prosthesis where the lower or upper limb prosthesis, back brace or permanent leg brace is supplied by the Board,

.

(2) Clause 52 (3) (b) of the said Act, as re-enacted by subsection (1) of this section, applies to payments accruing on and after the 1st day of July, 1984, but nothing therein entitles any person to claim additional payment for any period prior to the 1st day of July, 1984.

Commence-
ment

7. This Act comes into force on the 1st day of July, 1984.

Short title

8. The short title of this Act is the *Workers' Compensation Amendment Act, 1984*.

Bill 100

An Act to revise and consolidate the Law respecting the Organization, Operation and Proceedings of Courts of Justice in Ontario

The Hon. R. McMurtry
Attorney General

<i>1st Reading</i>	March 20th, 1984
<i>2nd Reading</i>	March 20th, 1984
<i>3rd Reading</i>	
<i>Royal Assent</i>	

(Reprinted as amended by the Administration of Justice Committee)

EXPLANATORY NOTES

This Bill is a revision and consolidation of all the courts Acts and of related legislation. It has been prepared concurrently with the preparation of new Rules of Civil Procedure arising out of the Report of the Civil Procedure Revision Committee chaired by the late Walter Williston, Q.C. The new rules of court are being prepared by a subcommittee of the Rules Committee under the chairmanship of Mr. Justice Morden, and will be made by the Rules Committee under the *Courts of Justice Act, 1984*.

PART I. There is little substantive change in the organization of the Supreme Court. Appeals from monetary judgments of the High Court or the District Court for less than \$25,000 will be heard by the Divisional Court rather than the Court of Appeal.

PART II. The county and district courts are amalgamated into one court called the District Court. The monetary jurisdiction of the District Court is increased to \$25,000. The courts of general sessions of the peace and the county court judge's criminal court are also absorbed by the District Court.

PART III. There is little substantive change in the organization of the Unified Family Court.

PART IV. The separate provincial courts for each county and district are amalgamated into province-wide courts; that is, the Provincial Court (Criminal Division), the Provincial Court (Family Division) and the Provincial Offences Court. The small claims courts and the existing Provincial Court (Civil Division) in Metropolitan Toronto all become the Provincial Court (Civil Division).

The provisions relating to the tenure and removal of provincial judges are made similar to those applying to federally appointed judges. Many of the recommendations of the Gale Report on the *Provincial Courts Act* are implemented.

PART V. The rule-making authority is revised to relate to the new Rules of Civil Procedure.

PART VI. The respective responsibilities of the Attorney General and the judiciary in the administration of the courts are outlined and an Ontario Courts Advisory Council is established.

PART VII. The general provisions for judges and court officers contain little change, but changes include the abolition of the concept of a judge acting as *persona designata*.

PART VIII. The provisions for the law respecting court proceedings are extensively revised. Changes are principally in procedures but include making both French and English the official languages of the courts, subject to provisions governing their use.

PART IX. The transitional provisions ensure the continuation of jurisdiction and proceedings in the appropriate court.

PART X. SECTION 161. The provision deleted provides for the making of rules of procedure for certain court matters arising under the Act. Any rules required will be provided by the Rules for Civil Procedure under section 90 of this Bill.

SECTION 162. The office of clerk of the peace is abolished in implementation of the Ontario Law Reform Commission Report on the Administration of Ontario Courts, Part II, page 94. The amendment is one of a series in this Bill to replace the clerk of the peace by another appropriate officer.

SECTION 163. The provision deleted provides for the closing of court proceedings to the public. The matter is covered by the general rule in section 145 of this Bill.

SECTION 164. The repealed provision appears as section 19 of this Bill.

SECTION 165. The amendments adapt the terminology and procedures in the provisions referring to court proceedings to make them accord with new terminology and procedures in this Bill and the proposed Rules of Civil Procedure.

SECTION 166. See the explanatory note for section 162 of this Bill.

SECTION 167. This section abolishes the county and district court judges' criminal courts. It is proposed to have this jurisdiction given to the District Court.

SECTIONS 168 and 169. The *County Courts Act* and the *County Judges Act* are replaced by Part II of this Bill.

SECTION 170. See the explanatory notes for sections 162, 167 and 180.

SECTION 171. The section repealed provides for the service of documents on residents of facilities for the developmentally handicapped. The procedure for service will be included in the new Rules of Civil Procedure made under section 90 of this Bill.

SECTION 172. See the explanatory note for section 162 of this Bill.

SECTION 173. Section 1 of the repealed Act is contained in section 155 of this Bill. The remainder will be dealt with by intergovernmental agreement.

SECTION 174. The repealed provision provides for court procedures which will be dealt with by the proposed Rules of Civil Procedure made under section 90 of this Bill.

SECTION 175. The provisions repealed are now dealt with by section 152 of this Bill.

SECTION 176.—Subsection 1. The amendment supplements the *prima facie* validity given to examinations and depositions made before a judge or other appointed officer, when used in transcript form.

Subsection 2. The amendment will permit commission evidence to be taken in Ontario for use outside Ontario for purposes other than a trial.

SECTION 177.—Subsection 1. The amendment clarifies the sheriff's power to enter premises to enforce court orders. The need for clarification has been recommended by the Ontario Law Reform Commission in its 1981 Report on the Enforcement of Judgments and Related Matters, Part II, p. 110.

Subsection 2. The provision repealed provides for certain fees payable to the sheriff which are now provided for under the *Administration of Justice Act*.

Subsection 3. The new provision moves rule 551 of the present Rules into the *Execution Act* and eliminates charging orders in execution against a partner's share in a partnership, as recommended by the Ontario Law Reform Commission in its Report on the Enforcement of Judgments and Related Matters, Part II, p. 256.

SECTION 178. The provisions repealed are covered in sections 99 and 100 of this Bill.

SECTION 179.—Subsection 1. The provision repealed provides for the exclusion of the public from hearings. The matter is dealt with by section 145 of this Bill.

Subsections 2 and 3. The changes recognize that each court will have province wide jurisdiction.

Subsection 4. The provision repealed provides for the attachment of wages. The matter will be dealt with by garnishment provisions of the proposed Rules of Civil Procedure.

SECTIONS 180, 181 and 182. The courts of general sessions of the peace are abolished. It is proposed to have this jurisdiction given to the District Court.

SECTION 183. The amendment revises the terminology respecting the forms in which claims may be made in an action.

SECTION 184.—Subsection 1. The amendment moves section 131 of the *Judicature Act* into the *Interpretation Act* and widens its application to include matters other than court proceedings.

Subsection 2. The sections repealed apply to court procedures now covered in this Bill and the proposed Rules of Civil Procedure.

Subsections 3 and 4. References to the *Judicature Act* are replaced by references to the *Courts of Justice Act, 1983*.

SECTION 185. The amendment widens the definition of subpoena to include the attendance of witnesses at an examination.

SECTION 186. The Act repealed principally provides for the case where a judge acts as *persona designata*. The concept is abolished by section 97 of this Bill.

SECTION 187. The *Judicature Act* will be replaced by this Bill.

SECTION 188. The provision repealed speaks on the application of rules of court to judicial review and is repealed as unnecessary.

SECTION 189. The amendments adjust the terminology to reflect the elimination of the terms “court of general sessions of the peace” and “clerk of the peace” and the replacement of the *Judicature Act* by this Bill. Subsection (4) permits the issuance of joint precepts for jurors for Supreme and District Court sittings held at the same time.

SECTION 190. The provision repealed relates to the registering of certificates of pending litigation, which is to be governed by section 116 of this Bill.

SECTION 191.—Subsection 1. The provision repealed provides for the payment of money into court in libel actions. The matter will be dealt with in the proposed Rules of Civil Procedure.

Subsection 2. The present rule 160 of the Rules of Practice is moved into the *Libel and Slander Act*.

SECTION 192. The provision repealed defines “action” which is more adequately covered by this Bill.

SECTION 193. Section 1 of the repealed Act is contained in section 125 of this Bill.

Sections 2 and 3 deal with court procedures and will be superseded by this Bill and the proposed Rules of Civil Procedure.

Section 4 provides for the office of Queen’s Proctor which is eliminated and remaining functions assumed by the Attorney General under the proposed Rules of Civil Procedure.

SECTION 194. The provision repealed provides for the service of documents on patients in psychiatric facilities. This will be covered by the proposed Rules of Civil Procedure.

SECTION 195. The requirement that an order of a county or district judge be confirmed by a Supreme Court judge is eliminated.

SECTION 196. The amendments adjust the terminology for designating the officers who assess costs in a proceeding.

SECTION 197. The provision repealed provides for rules of procedure in court matters. All rules governing court procedures will be made under section 90 of this Bill.

SECTION 198. The provision repealed defines “action” as including a counterclaim. Its repeal permits the definition of action in this Bill to apply and include crossclaims and third party claims.

SECTION 199. The provisions for procedures on appeal are deleted, to be dealt with under section 90 of this Bill.

SECTION 200. The amendments adjust terminology to refer to an application as a method of commencing a proceeding and a motion as a step in a proceeding.

SECTION 201. The provision repealed provides for the Commissioner of the Ontario Provincial Police to be *ex officio* a provincial judge.

SECTION 202. See the explanatory note for section 162 of this Bill.

SECTION 203.—Subsection 1. The reference deleted is to a provision that no longer exists.

Subsection 2. The amendment revises the service of documents on the Crown to accord with similar provisions in the proposed Rules.

Subsection 3. The amendment permits moneys to be paid out of the Consolidated Revenue Fund in payment of settlements of court actions, without a court order.

SECTION 204. The *Provincial Courts Act* is superseded by this Bill except the provisions for juvenile observation and detention homes.

SECTION 205. The Act repealed is superseded by this Bill.

SECTION 206.—Subsection 1. The amendment clarifies that the limitation periods referred to are those applying by or under any Act and not to be “prescribed” by the regulations.

Subsections 2 and 3. The amendment makes clear that there is no appeal from an order respecting leave to appeal.

SECTION 207. The subject matter in the Act repealed is now dealt with by other more specific provisions throughout the legislation.

SECTION 208. The *Quieting Titles Act* is repealed as being no longer necessary in view of the *Certification of Titles Act* and the proposed Rules of Civil Procedure.

SECTION 209. The provision repealed provides for making rules of court which can be made under section 90 of this Bill.

SECTION 210. The main provisions of the *Replevin Act* are contained in sections 117 and 177 of this Bill.

SECTION 211. The provision repealed defines “action” which is more adequately covered by this Bill.

SECTION 212.—Subsection 1. The new section 1 brings the appointment of sheriffs and deputy sheriffs into uniformity with the appointment of other court officers. In the new section 2, an obsolete provision is replaced by a useful general principle giving the sheriff standing to enforce court processes.

Subsection 2. The provision repealed provides for the payment of certain fees to sheriffs. All fees are to be provided for under the *Administration of Justice Act*.

Subsection 3. The hours of business for sheriffs’ offices are made to correspond with those of court offices.

Subsection 4. See the explanatory note to section 181 of this Bill.

Subsection 5. The provision repealed provides for the duties of deputy sheriff. This is covered in the new section 1 of the Act.

SECTION 213. The *Small Claims Courts Act* is repealed and the courts provided for in sections 77 to 85 of this Bill as part of the Provincial Court (Civil Division).

SECTION 214.—Subsections 1 and 2. The terminology and procedure are made consistent with the new Rules of Civil Procedure.

Subsections 3 and 6. The new provisions are now provided for as Rules 675 and 696 of the Rules of the Supreme Court. Rule 696 is moved to the statute following the recommendation of the Ontario Law Reform Commission Report on the *Solicitors Act* (1973), pp. 36, 37.

Subsection 4. The provision repealed provides for court procedures which are provided for under section 96 of this Bill.

Subsections 5 and 7. The amendment updates a reference to the corresponding provision of this Bill.

SECTION 215.—Subsection 1. The provision repealed provides for seals of the courts and is covered by section 154 of this Bill.

Subsection 2. The maximum fine for contempt of court is raised from \$100 to \$10,000.

Subsection 3. The words deleted are provided for in the rule making power in subsection (7) of this section.

Subsection 4. The provision repealed provides for the oath of office of judges of the Surrogate Court. The matter is covered by a general provision in section 97 of this Bill applying to all judges.

Subsection 5. The provision is added to correspond with the appointment of registrars and deputy registrars in other courts.

Subsection 6. The provisions repealed are adequately provided for elsewhere.

Subsection 7. The rule making authority for surrogate courts is revised to correspond with the authority of other courts under this Act.

SECTION 216.—Subsections 1 and 2. The repository for orders removing trustees is changed from the Registrar of the Supreme Court to the Surrogate Clerk for Ontario.

Subsection 3. The provisions repealed relate to court procedures which are adequately covered by this Bill and the Rules of Civil Procedure.

SECTION 217. The *Unified Family Court Act* is repealed and the court is provided for by Part III of this Bill.

SECTION 218. The *Vexatious Proceedings Act* is repealed and its content is covered in section 150 of this Bill.

SECTION 219. The provision repealed defines "action", which is more adequately covered by this Bill.

SECTION 220. The provision repealed provides authority for making rules prescribing forms. Ample authority for such rules exists under this Bill.

Bill 100

1984

An Act to revise and consolidate the Law respecting the Organization, Operation and Proceedings of Courts of Justice in Ontario

CONTENTS

Section

Section

1. Interpretation

PART I

SUPREME COURT OF ONTARIO

Organization

2. Supreme Court
3. Court of Appeal
4. High Court
5. Divisional Court
6. Additional judges
7. Rank and Precedence
8. Jurisdiction of Judges
9. Assignment of judges to another court
10. Council of judges
11. Delegation of powers
12. Local judges

Jurisdiction

13. High Court jurisdiction
14. Composition of court for hearings
15. Divisional Court jurisdiction
16. Composition of court for hearings
17. Court of Appeal jurisdiction
18. Composition of court for hearings
19. References to Court of Appeal

Officers

20. Masters
21. Registrars
22. Accountant
23. Finance Committee
24. Other Officers

PART II

DISTRICT COURT OF ONTARIO

Organization

25. District Court
26. Judges
27. Chief judge
28. Senior judges
29. Additional judges
30. Rank and precedence
31. Annual meeting

Jurisdiction

32. Jurisdiction
33. Dispute of monetary jurisdiction
34. Transfer from Supreme Court to District Court
35. Powers of Court
36. Appeals

Officers

37. Local registrars

PART III

UNIFIED FAMILY COURT

38. Unified Family Court
39. Jurisdiction of judges
40. Proceedings in Unified Family Court
41. Consent to jurisdiction
42. Orders of predecessor court
43. Powers
44. Place where proceedings commenced
45. Status of orders
46. Appeals
47. Criminal jurisdiction
48. Clerk
49. Conciliation service
50. Regulations

Section

- 51. Rules
 - Schedule of jurisdiction
- PART IV
PROVINCIAL COURTS
- Judges
- 52. Appointment of judges
- 53. Other employment
- 54. Retirement
- 55. Resignation
- 56. Removal for cause
- 57. Judicial Council
- 58. Functions
- 59. Investigation of complaints
- 60. Inquiry
- 61. Jurisdiction of judges
- 62. Where procedure not provided
- 63. Chief judges
- 64. Senior judges
- 65. Election to revert to office of judge
 - Provincial Court
(Criminal Division)
- 66. Provincial Court
(Criminal Division)
- 67. Exercise of criminal jurisdiction
 - Provincial Offences Court
- 68. Provincial Offences Court
- 69. Jurisdiction
- 70. Joint sittings
- 71. Contempt
- 72. Penalty for disturbance outside courtroom
- 73. Rules
 - Provincial Court
(Family Division)
- 74. Provincial Court
(Family Division)
- 75. Jurisdiction
- 76. Rules
 - Provincial Court
(Civil Division)
- 77. Provincial Court
(Civil Division)
- 78. Jurisdiction
- 79. Representation
- 80. Evidence
- 81. Instalment orders
- 82. Enforcement of orders
- 83. Appeals
- 84. Transfer from Supreme or District Court
- 85. Rules

Section

- Officers
- 86. Clerks
- Regulations
- 87. Regulations
- 88. Ontario Provincial Courts Committee
- PART V
RULES OF CIVIL PROCEDURE
- 89. Rules Committee
- 90. Rules of Civil Procedure
- PART VI
COURTS ADMINISTRATION
- 91. Attorney General's administrative responsibility
- 92. Ontario Courts Advisory Council
- 93. Trial lists and courtrooms
- 94. Appointment of court staff
- 95. Direction of court staff
- PART VII
JUDGES AND OFFICERS
- 96. Oath of Office
- 97. *Persona designata* abolished
- 98. Liability of judges
- 99. Compensation of judges for statutory duties
- 100. Extra judicial services
- 101. Inspector of Legal Offices
- 102. Official Guardian
- 103. Assessment Officers
- 104. Official examiners
- 105. Administration of oaths
- 106. Money held by officer of court
- 107. Disposition of court fees
- PART VIII
COURT PROCEEDINGS
- 108. Application of Part
 - Common Law and Equity
- 109. Rules of law and equity
- 110. Declaratory orders
- 111. Relief against penalties
- 112. Damages in lieu of injunction or specific performance
- 113. Vesting orders
- Interlocutory Orders
- 114. Injunctions and receivers
- 115. Labour injunctions
- 116. Certificate of pending litigation
- 117. Interim order for recovery of personal property

Section

- 118. Physical and mental examinations
- 119. Stay of proceedings
- 120. Consolidation of proceedings in different courts
- Procedural matters
- 121. Jury trials
- 122. Constitutional questions
- 123. Proceedings in wrong forum
- 124. Set off
- 125. Report of Official Guardian in divorce action
- 126. Agreement preventing third party claim
- 127. Agreement as to place of hearing
- 128. Security
- 129. Periodic payment and review of damages
- 130. Assessment of damages
- 131. Foreign money obligations
- 132. Actions for accounting
- 133. Giving decisions
- 134. Service on Sunday
- Language
- 135. Official languages of the courts
- 136. Proceedings in French language
- Interest and Costs
- 137. Interpretation
- 138. Prejudgment interest
- 139. Postjudgment interest
- 140. Discretion of court
- 141. Costs
- Appeals
- 142. Judge not to hear appeal from own decision
- 143. Leave to appeal required

Section

- 144. Powers on appeal
- Public Access
- 145. Public hearings
- 146. Prohibition against photography, etc., at court hearing
- 147. Documents public
- Miscellaneous
- 148. Multiplicity of proceedings
- 149. Joint liability not affected by judgment or release
- 150. Vexatious proceedings
- 151. Protection for acting under court order
- 152. Enforcement of bonds and recognizances
- 153. Payment to foreign payee
- 154. Seal of court
- 155. Jurisdiction of Federal court
- PART IX
- TRANSITIONAL PROVISIONS
- 156. Application to all proceedings
- 157. Continuation of county court proceedings
- 158. Continuation of provincial court proceedings
- 159. References to territorial jurisdiction of courts
- PART X
- COMPLEMENTARY
- AMENDMENTS TO STATUTE
- LAW
- 160. Changes in terminology
- 161-220. Complementary amendments and repeals
- 221. Proclamation
- 222. Short title

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpretation

- (a) “action” means a civil proceeding that is not an application and includes a proceeding commenced in the Supreme Court or the District Court by,
 - (i) statement of claim,
 - (ii) notice of action,

- (iii) counterclaim,
- (iv) crossclaim,
- (v) third or subsequent party claim, or
- (vi) divorce petition or counterpetition,

and a proceeding commenced in the Provincial Court (Civil Division) by claim;

- (b) “application” means a civil proceeding in the Supreme Court or the District Court that is commenced by notice of application or a civil proceeding in the Unified Family Court, a surrogate court or the Provincial Court (Family Division) that is commenced by application;
- (c) “defendant” means a person against whom an action is commenced;
- (d) “hearing” includes a trial;
- (e) “motion” means a motion in a proceeding or an intended proceeding;
- (f) “order” includes a judgment or decree;
- (g) “plaintiff” means a person who commences an action;
- (h) “Rules of Civil Procedure” means the rules for the Supreme Court and the District Court made under Part V.

PART I

SUPREME COURT OF ONTARIO

ORGANIZATION

Supreme
Court

2.—(1) The Supreme Court of Ontario is continued as a superior court of record having civil and criminal jurisdiction, with all the jurisdiction, power and authority historically exercised by courts of common law and equity in England and Ontario.

Branches

(2) The Supreme Court shall continue to consist of two branches, the Court of Appeal for Ontario and the High Court of Justice for Ontario. R.S.O. 1980, c. 223, ss. 2, 3.

3.—(1) The Court of Appeal shall consist of the Chief Justice of Ontario, who shall be president of the court, the Associate Chief Justice of Ontario and fourteen other judges to be called justices of appeal.

Court of
Appeal

(2) Where the Chief Justice of Ontario is absent from Ontario or is for any reason unable to act, the powers and duties of the Chief Justice as president of the Court of Appeal shall be exercised and performed by the Associate Chief Justice of Ontario or, where both are absent or unable to act, by the senior justice of appeal who is present and able to act. R.S.O. 1980, c. 223, s. 4.

Absence of
Chief Justice

4.—(1) The High Court shall consist of the Chief Justice of the High Court, who shall be president of the court, the Associate Chief Justice of the High Court and such number of other judges as is fixed under subsection (2). R.S.O. 1980, c. 223, s. 5 (1); 1981, c. 23, s. 2 (1).

High Court

(2) The Lieutenant Governor in Council may by regulation fix the number of judges of the High Court who are in addition to the Chief Justice and Associate Chief Justice, but where the number is reduced by regulation, the reduction shall not be applied to affect appointments existing at the time of the reduction. 1981, c. 23, s. 2 (2).

Number of
judges

(3) Where the Chief Justice of the High Court is absent from Ontario or is for any reason unable to act, all the powers and duties of the Chief Justice of the High Court shall be exercised and performed by the Associate Chief Justice of the High Court or, where both are absent or unable to act, by the senior judge of the High Court who is present and able to act. R.S.O. 1980, c. 223, s. 5 (2).

Absence of
Chief Justice

5.—(1) There shall be a division of the High Court to be known as the Divisional Court of the High Court of Justice for Ontario consisting of the Chief Justice of the High Court who shall be president of the court and such other judges of the High Court as the Chief Justice may designate from time to time.

Divisional
Court

(2) Every judge of the High Court is also a judge of the Divisional Court. R.S.O. 1980, c. 223, s. 7.

Jurisdiction
of judges

6.—(1) For each of the offices of Chief Justice of Ontario and Associate Chief Justice of Ontario there shall be such additional offices of judges of the Court of Appeal as are from time to time required, to be held by Chief Justices of Ontario

Additional
judges

R.S.C. 1970,
c. J-1 and Associate Chief Justices of Ontario who have elected under the *Judges Act* (Canada) to perform only the duties of a judge of the Court of Appeal.

Idem

(2) For each of the offices of Chief Justice of the High Court and Associate Chief Justice of the High Court there shall be such additional offices of judge of the High Court as are from time to time required, to be held by Chief Justices of the High Court and Associate Chief Justices of the High Court who have elected under the *Judges Act* (Canada) to perform only the duties of a judge of the High Court. *New.*

Super-
numerary
judges

(3) For each office of judge of the Court of Appeal and of the High Court of Justice there shall be the additional office of supernumerary judge held by a judge of such court who has elected under the *Judges Act* (Canada) to hold office only as a supernumerary judge of that court. R.S.O. 1980, c. 223, s. 6.

Rank and
precedence

7.—(1) The judges of the Supreme Court have rank and precedence as follows:

1. The Chief Justice of Ontario.
2. The Chief Justice of the High Court.
3. The Associate Chief Justice of Ontario.
4. The Associate Chief Justice of the High Court.
5. The other judges of the Supreme Court, according to seniority of appointment. R.S.O. 1980, c. 223, s. 8.

Court of
Appeal

(2) Among themselves, the judges of the Court of Appeal have rank and precedence, after the Chief Justice of Ontario and the Associate Chief Justice of Ontario, according to seniority of appointment to the Court of Appeal. *New.*

Jurisdiction
of judges

8. A judge appointed to the Court of Appeal or the High Court is a judge of the Supreme Court and, by virtue of his or her office, a judge of the branch of which he or she is not a member and, except as otherwise provided, all judges of the Supreme Court have equal jurisdiction, power and authority. R.S.O. 1980, c. 223, s. 9.

Assignment
of judges to
another court

9.—(1) The Chief Justice of Ontario may assign a judge of the Court of Appeal to perform, in Toronto, the work of a judge of the High Court.

(2) The Chief Justice of Ontario, with the concurrence of the Chief Justice of the High Court, may assign a judge of the High Court to sit as a member of the Court of Appeal. Idem
R.S.O. 1980, c. 223, s. 42 (1, 2).

10.—(1) A council of the judges of the Supreme Court shall be held in Toronto at least once in each year, on a day fixed by the Chief Justice of Ontario, for the purpose of considering this Act, the Rules of Civil Procedure and the administration of justice generally. Council of judges

(2) The judges shall report their recommendations to the Attorney General. Recommendations
R.S.O. 1980, c. 223, s. 118 (1, 2).

11. Where a power or authority is conferred on the judges of the Supreme Court or the High Court as a body, they may delegate the power or authority to a committee of themselves. Delegation of powers
R.S.O. 1980, c. 223, s. 119 (1).

12.—(1) Every District Court judge may be appointed as a local judge of the High Court. Local judges

(2) Every local judge has the jurisdiction conferred by the Rules of Civil Procedure. Jurisdiction

(3) Subject to the Rules of Civil Procedure, every local judge has all the jurisdiction of a judge of the High Court to hear and determine actions under the *Divorce Act* (Canada) and, where a claim for other relief is joined in a petition for divorce, a local judge has the same jurisdiction to hear and determine the claim as a judge of the High Court. Idem
R.S.C. 1970,
c. D-8

(4) A local judge may act in any county or district. Idem
R.S.O. 1980, c. 223, s. 121.

JURISDICTION

13.—(1) Unless otherwise provided, proceedings in the Supreme Court shall be in the High Court. High Court jurisdiction

(2) Subject to the *Divorce Act* (Canada), an appeal lies to the High Court from, Appeals to High Court

(a) an interlocutory order of a master;

(b) an interlocutory order of a local judge of the High Court, where the order could have been made by a master;

- (c) a certificate of assessment of costs issued in a proceeding in the Supreme Court, where the appeal is on an issue in respect of which an objection was served under the Rules of Civil Procedure. *New.*

Composition
of court for
hearings

14.—(1) Unless otherwise provided by an Act or the Rules of Civil Procedure, every proceeding in the High Court shall be heard and determined by one judge of the High Court.

Sittings

(2) The sittings of the High Court and the assignment of judges thereto shall be determined by the judges of the High Court, with power in the Chief Justice of the High Court to make such readjustment or reassignment as is necessary from time to time. R.S.O. 1980, c. 223, s. 45 (1-3).

Idem

(3) At least two sittings of the High Court shall be held in each year in every county and district but, when there are not enough proceedings ready to be heard at the sitting to justify a separate sitting, the sitting may be held in an adjacent county or district. R.S.O. 1980, c. 223, s. 48 (6).


Divisional
Court
jurisdiction
R.S.C. 1970,
c. D-8

15.—(1) Subject to the *Divorce Act* (Canada), an appeal lies to the Divisional Court from,

- (a) a final order of a judge or local judge of the High Court,



(i) for a single payment of not more than \$25,000, exclusive of costs,

(ii) for periodic payments that amount to not more than \$25,000, exclusive of costs, in the twelve months commencing on the date the first payment is due under the order, 

(iii) dismissing a claim for an amount that is not more than the amount set out in subclause (i) or (ii), or

(iv) dismissing a claim for an amount that is more than the amount set out in subclause (i) or (ii) and in respect of which the judge indicates that if the claim had been allowed the amount awarded would have been not more than the amount set out in subclause (i) or (ii);

- (b) an interlocutory order of a judge of the High Court, with leave as provided in the Rules of Civil Pro-

cedure, other than an order made on an appeal from the District Court;

- (c) an interlocutory order of a local judge of the High Court, with leave as provided in the Rules of Civil Procedure, other than an order that could have been made by a master;
- (d) a final order of a master;
- (e) a final order of a local judge of the High Court, where the order could have been made by a master. R.S.O. 1980, c. 223, s. 17.

(2) Where an appeal in a proceeding lies to the High Court and an appeal in the same proceeding lies to and is taken to the Divisional Court, the Divisional Court has jurisdiction to hear and determine the appeal that lies to the High Court at the same time as the appeal to the Divisional Court and may, on motion, transfer an appeal that has already been commenced in the High Court to the Divisional Court. *New.*

Combining of
appeals lying
to High
Court

16.—(1) Unless otherwise provided, every proceeding in the Divisional Court shall be heard and determined by three judges sitting together.

Composition
of court for
hearings

(2) A proceeding in the Divisional Court may be heard and determined by one judge where the proceeding,

Idem

- (a) is an appeal under clause 15 (1) (d) or (e);
- (b) is an appeal under section 83 (from the Provincial Court (Civil Division)); or
- (c) is in a matter that the Chief Justice of the High Court or a judge designated by the Chief Justice is satisfied, from the nature of the issues involved and the necessity for expedition, can and ought to be heard and determined by one judge. R.S.O. 1980, c. 223, s. 46.

(3) A motion in the Divisional Court, unless otherwise provided by the Rules of Civil Procedure, shall be heard and determined by one judge, but,

Idem

- (a) the judge may adjourn the motion to a panel of the Divisional Court;
- (b) where the motion is heard by one judge, a panel of the Divisional Court may, on motion, set aside or

vary the decision of the judge. R.S.O. 1980, c. 223, s. 40.

Sittings

(4) Sittings of the Divisional Court shall be held at such times and in such places as the Chief Justice of the High Court directs. R.S.O. 1980, c. 223, s. 46 (4).

Court of Appeal jurisdiction

17.—(1) An appeal lies to the Court of Appeal from,

- (a) an order of the Divisional Court, on a question that is not a question of fact alone, with leave as provided in the Rules of Civil Procedure;
- (b) a final order of a judge of the High Court, except an order referred to in clause 15 (1) (a);
- (c) a final order of a local judge of the High Court, except an order referred to in clause 15 (1) (a) or where the order could have been made by a master. R.S.O. 1980, c. 223, s. 28 (1).

Combining of appeals lying to other courts

(2) Where an appeal in a proceeding lies to the Divisional Court or High Court, and an appeal in the same proceeding lies to and is taken to the Court of Appeal, the Court of Appeal has jurisdiction to hear and determine the appeal that lies to the Divisional Court or High Court at the same time as the appeal to the Court of Appeal and may, on motion, transfer an appeal that has already been commenced in the High Court or Divisional Court to the Court of Appeal. *New.*

Composition of court for hearings

18.—(1) Unless otherwise provided, every proceeding in the Court of Appeal shall be heard and determined by not fewer than three judges sitting together, and always by an uneven number of judges.

Idem

R.S.C. 1970, c. D-8

(2) An appeal to the Court of Appeal from an interim order under section 10 of the *Divorce Act* (Canada) may be heard and determined by one judge, unless it is to be heard with an appeal that, but for subsection 17 (2), would have been heard by three judges of the Divisional Court. R.S.O. 1980, c. 223, s. 41.

Idem

(3) A motion in the Court of Appeal, except a motion for leave to appeal, a motion to quash an appeal or such other motion as is specified by the Rules of Civil Procedure, shall be heard and determined by one judge, but,

- (a) the judge may adjourn the motion to a panel of the Court of Appeal;

- (b) where the motion is heard by one judge, a panel of the Court of Appeal may, on motion, set aside or vary the decision of the judge. R.S.O. 1980, c. 223, s. 33.

(4) The senior judge on a panel of the Court of Appeal shall preside but, where the senior judge is a supernumerary judge, the Chief Justice of Ontario, on the request of the senior judge, may designate another judge to preside. R.S.O. 1980, c. 223, s. 44.

Presiding
judge

(5) The Chief Justice of Ontario has general supervision and direction over the sittings of the Court of Appeal and the assignment of the judicial duties of the court. R.S.O. 1980, c. 223, s. 41 (4).

Sittings

19.—(1) The Lieutenant Governor in Council may refer any question to the Court of Appeal for hearing and consideration.

References to
Court of
Appeal

(2) The court shall certify its opinion to the Lieutenant Governor in Council, accompanied by a statement of the reasons therefor, and any judge who differs from the opinion may in like manner certify his or her opinion and reasons.

Opinion of
court

(3) On the hearing of the question, the Attorney General of Ontario is entitled to make submissions to the court.

Submissions
by Attorney
General

(4) Where a question relates to the constitutional validity or constitutional applicability of an Act of the Parliament of Canada or the Legislature, or of a regulation or by-law made thereunder, the Attorney General of Canada shall be notified and is entitled to make submissions to the court.

Idem

(5) The court may direct that any person interested, or any one or more persons as representatives of a class of persons interested, be notified of the hearing and be entitled to make submissions to the court.

Notice

(6) Where an interest affected is not represented by counsel, the court may request counsel to argue on behalf of the interest, and the reasonable expenses thereof shall be paid by the Treasurer of Ontario.

Appointment
of counsel

(7) The opinion of the court shall be deemed to be a judgment of the court and an appeal lies therefrom as from a judgment in an action. R.S.O. 1980, c.86.

Appeal

OFFICERS

Masters

20.—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint such masters of the Supreme Court as are considered necessary. R.S.O. 1980, c. 223, s. 96 (1).

Qualifications

(2) No person shall be appointed as a master unless he or she has been a member of the bar of one of the provinces of Canada for at least ten years.

Jurisdiction

(3) Every master has the jurisdiction conferred by the Rules of Civil Procedure. *New.*

Regulations

(4) The Lieutenant Governor in Council may make regulations,

(a) fixing the remuneration of masters;

(b) providing for the benefits to which masters are entitled, including,

(i) leave of absence and vacations,

(ii) sick leave credits and payments in respect of such credits,

(iii) pension benefits for masters and their surviving spouses and children,

R.S.O. 1980,
cc. 418, 419

and for the transfer or other disposition of benefits in respect thereof to which persons appointed as masters were entitled under the *Public Service Act* or the *Public Service Superannuation Act* at the time of their appointment. R.S.O. 1980, c. 223, s. 100 (1).


Contributions

(5) Regulations made under clause (4) (b) may require masters to contribute from their salaries part of the cost of benefits and may fix the amount of the contributions.

Application
of R.S.O.
1980, c. 419

(6) A regulation made under clause (4) (b) may modify or exclude the application of the *Public Service Superannuation Act*.

Application
of s. (4) (b)

(7) A regulation made under clause (4) (b) may be general or particular in its application. 1983, c. 78, s. 1. 

(8) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint a master as Senior Master.

(9) The Senior Master has general supervision and direction over the sittings of the masters and the assignment of their judicial duties.

(10) The Attorney General may designate a master to act in the place of the Senior Master for all purposes during his or her absence or inability to act. R.S.O. 1980, c. 223, s. 99.

(11) Sections 53 to 60 and section 65 apply with necessary modifications to masters and the Senior Master in the same manner as to provincial judges and a chief judge, respectively. R.S.O. 1980, c. 223, ss. 96 (2-4), 97, 98, 100 (2, 3).

21.—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint a Registrar of the Supreme Court of Ontario.

(2) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint a local registrar of the Supreme Court for each county and district and additional local registrars for such counties and districts as are indicated in the appointment. *New.*

(3) With the approval of the Attorney General, every local registrar may appoint in writing a deputy local registrar who may exercise and perform all the powers and duties of the local registrar. R.S.O. 1980, c. 223, s. 85.

22.—(1) The Accountant of the Supreme Court is continued as a corporation sole by the name of "Accountant of the Supreme Court of Ontario".

(2) The Lieutenant Governor in Council may appoint the Accountant of the Supreme Court.

(3) Money paid into the Supreme Court shall be paid to the Accountant and such money and securities in which the money is invested are vested in the Accountant. R.S.O. 1980, c. 223, s. 110 (1, 2).

(4) Mortgages and other securities taken under an order of the Supreme Court and instruments taken as security in respect of a proceeding in the Supreme Court shall be taken in the name of the Accountant and shall be deposited in his or her office, except where an order provides otherwise.

- Idem (5) Subject to an order of the court, the Accountant has no duty or obligation in respect of the instruments deposited under subsection (4) except as custodian of the instruments. *New.*
- Audit by Provincial Auditor (6) The Provincial Auditor shall examine and report on the accounts and financial transactions of the Accountant. R.S.O. 1980, c. 223, s. 115.
- Finance committee **23.**—(1) The finance committee is continued and shall be composed of three persons appointed by the Lieutenant Governor in Council.
- Management of court funds (2) The finance committee has control and management of the money in the Supreme Court, the investment of the money and the securities in which it is invested.
- Investment of court funds (3) Money that is available for investment shall be invested in investments in which the Treasurer of Ontario may invest public money under section 3 of the *Financial Administration Act*. R.S.O. 1980, c. 161
- Employment of trust company (4) The finance committee may employ a trust company to make the investments or act as custodian of the securities purchased as investments.
- Interest (5) The finance committee may provide for the payment of interest on money paid into the Supreme Court and may fix the rate of interest so paid.
- Reserve funds (6) The finance committee may establish such reserve funds as it considers necessary. R.S.O. 1980, c. 223, s. 111.
- Other Officers **24.** In addition to the officers specifically provided for in this Act, the Lieutenant Governor in Council on the recommendation of the Attorney General, may appoint such officers of the Supreme Court as are considered necessary. R.S.O. 1980, c. 223, s. 83 (1).

PART II

DISTRICT COURT OF ONTARIO

ORGANIZATION

- District Court **25.**—(1) The county and district courts, the courts of general sessions of the peace and the county and district court judges' criminal courts are amalgamated and continued as a single court of record having civil and criminal jurisdiction,

named the District Court of Ontario. R.S.O. 1980, c. 100, s. 2.

(2) The District Court shall be presided over by a judge of the court. R.S.O. 1980, c.100, s. 3. Judge to preside

26.—(1) The District Court shall consist of the Chief Judge of the District Court, who shall be president of the court, the Associate Chief Judge of the District Court, a senior judge for each county or district designated under clause (2) (b) and such number of other judges as is fixed under clause (2) (a). Judges

(2) The Lieutenant Governor in Council may make regulations, Regulations

(a) fixing the number of judges of the court who are in addition to the Chief Judge, Associate Chief Judge and senior judges, but where the number is reduced by regulation, the reduction shall not be applied to affect appointments existing at the time of the reduction;

(b) designating counties and districts to which more than one judge shall be assigned; and

(c) establishing regions for the purposes of this Part. R.S.O. 1980, c. 101, ss. 1-4, 15, 16 (1).

(3) A judge of a county or district court may preside as a judge of the District Court. County or district judges presiding in District Court

(4) Nothing in this Part affects the rights or privileges of a judge who was appointed as a judge of a county or district court before this Part comes into force. *New.* Rights and privileges of judges preserved

27.—(1) The Chief Judge of the District Court has general supervision and direction over the sittings of the court and the assignment of the judicial duties of the court. R.S.O. 1980, c. 101, s. 16 (4). Chief Judge

(2) At least one judge of the District Court shall be assigned by the Chief Judge to each county and district. *New.* Assignment of judges

(3) For the purposes of arranging the sittings of the District Court and considering matters relating to the court and the judges, the Chief Judge shall convene a meeting of the judges Annual meeting in regions

of each region at least once in every year. R.S.O. 1980, c. 101, s. 16 (5).

Absence of
Chief Judge

(4) Where the Chief Judge is absent from Ontario or is for any reason unable to act, all the powers and duties of the Chief Judge shall be exercised and performed by the Associate Chief Judge or, where both are absent or unable to act, by a judge designated by the Chief Judge. R.S.O. 1980, c. 101, s. 16 (3).

Senior judges

28.—(1) The senior judge of a county or district shall, subject to the authority of the Chief Judge, direct and supervise the sittings of the court in the county or district and the assignment of the judicial duties of the court in the county or district. R.S.O. 1980, c. 101, s. 7.

Idem

(2) A judge who, on the coming into force of this Part, was a senior judge of a county or district court under subsection 2 (2) of the *County Judges Act*, being chapter 101 of the Revised Statutes of Ontario, 1980, may, subject to the authority of the Chief Judge, direct and supervise the sittings of the District Court in the county or district and the assignment of the judicial duties of the District Court in the county or district. *New.*

Additional
judges

29.—(1) For each of the offices of Chief Judge of the District Court and Associate Chief Judge of the District Court, there shall be such additional offices of judge of the District Court as are from time to time required, to be held by Chief Judges and Associate Chief Judges who have elected under the *Judges Act* (Canada) to perform only the duties of a judge of the District Court. *New.*

R.S.C. 1970,
c. J-1

Super-
numerary
judges

(2) For each office of judge of the District Court, there shall be the additional office of supernumerary judge held by a judge of the court who has elected under the *Judges Act* (Canada) to hold office only as a supernumerary judge of the court. R.S.O. 1980, c. 101, s. 5 (1).

Rank and
precedence

30. The judges of the District Court have rank and precedence as follows:

1. The Chief Judge of the District Court.
2. The Associate Chief Judge of the District Court.
3. The other judges of the District Court, according to seniority of appointment. R.S.O. 1980, c. 101, s. 6.

31.—(1) A meeting of the judges of the District Court shall be held in Toronto at least once in every year, on a day fixed by the Chief Judge of the District Court, for the purpose of considering this Act, the Rules of Civil Procedure and the administration of justice generally. R.S.O. 1980, c. 101, s. 16 (8). Annual meeting

(2) The judges shall report their recommendations to the Attorney General. *New.* Recommendations

JURISDICTION

32.—(1) The District Court has jurisdiction to hear and determine any action except, Jurisdiction

- (a) where the sum claimed or the value of the property that is the subject of the action exceeds \$25,000, exclusive of interest and costs; or
- (b) where another court is required by an Act to hear and determine the action.

(2) The District Court does not have jurisdiction to grant prerogative remedies. R.S.O. 1980, c. 100, s. 14 (1). Idem

33.—(1) A defendant who disputes the jurisdiction of the District Court on the ground that the monetary limit mentioned in clause 32 (1) (a) has been exceeded shall do so in the statement of defence. Dispute of monetary jurisdiction

(2) Where a defendant disputes the monetary jurisdiction of the District Court in accordance with subsection (1), the plaintiff may, within fifteen days after the filing of the statement of defence, Transfer or abandonment of excess by plaintiff

- (a) on requisition to the local registrar of the District Court, require the action to be transferred to the Supreme Court; or
- (b) abandon the amount of the claim in excess of the monetary limit by serving and filing a notice abandoning the excess, in which case the plaintiff is not entitled to recover the excess in any other proceeding.

(3) Where the plaintiff does not take one of the steps permitted by subsection (2), the defendant may, within thirty days after the filing of the statement of defence, Transfer by defendant

- (a) where the action includes a claim for money in excess of the monetary limit mentioned in clause 32 (1) (a), on requisition to the local registrar of the District Court, require the action to be transferred to the Supreme Court; or
- (b) in any other case, make a motion to a judge of the High Court for an order transferring the action to the Supreme Court on the ground that the action is beyond the monetary jurisdiction of the District Court.

Jurisdiction
conclusive

(4) Where,

- (a) the monetary jurisdiction of the court is not disputed under subsection (1);
- (b) the plaintiff and the defendant fail to take the steps permitted by subsections (2) and (3); or
- (c) a motion under clause (3) (b) is dismissed,

the District Court has the monetary jurisdiction to hear and determine the action. R.S.O. 1980, c. 100, s. 14 (2-5).

Continuation
in Supreme
Court

(5) An action that is transferred to the Supreme Court under this section shall be titled in the Supreme Court and shall be continued as if it had been commenced in the Supreme Court. R.S.O. 1980, c. 100, s. 16.

Counter-
claims, etc.

(6) This section applies with necessary modifications to a counterclaim, crossclaim, third or subsequent party claim or a defence of set off, in which a claim is made in excess of the monetary limit mentioned in clause 32 (1) (a). R.S.O. 1980, c. 100, s. 15.

Transfer of
all claims in
main action

(7) Where an action is transferred to the Supreme Court under this section, any counterclaim, crossclaim or third or subsequent party claim in the action shall also be transferred unless a judge of the Supreme Court orders otherwise, and where a counterclaim, crossclaim or third or subsequent party claim is transferred to the Supreme Court under this section, the main action and any other counterclaim, crossclaim or third or subsequent party claim in the main action shall also be transferred unless a judge of the Supreme Court orders otherwise. *New.*

Transfer
from
Supreme
Court to
District
Court

34.—(1) An action in the Supreme Court may be transferred to the District Court by the local registrar of the Supreme Court in the county or district where the action was

commenced, upon requisition with the consent of all parties filed before the trial commences.

(2) On motion to a judge of the High Court made before the trial commences, an action in the Supreme Court may be transferred to the District Court where it appears probable that the amount of a judgment in the action will be, or the value of property that is the subject of the action is, within the monetary jurisdiction of the District Court.

Idem, by
order

(3) Where an action is transferred to the District Court under this section,

Conduct of
transferred
proceeding

- (a) the court has the monetary jurisdiction to hear and determine the action; and
- (b) the action shall be titled in the District Court and shall be continued as if it had been commenced in that court. *New.*

35.—(1) With respect to any matter within its jurisdiction, the District Court has the same powers as the Supreme Court to conduct its proceedings, grant remedies and enforce its orders and other process. R.S.O. 1980, c. 100, ss. 20, 26.

Powers of
Court

(2) The District Court may punish by fine or imprisonment, or by both, a wilful contempt of or resistance to its process, rules or orders, but the fine shall not in any case exceed \$10,000 nor shall the imprisonment exceed six months. R.S.O. 1980, c. 100, s. 27.


Contempt of
Court

36.—(1) An appeal from a final order of a judge of the District Court, except an order referred to in subsection (2), lies to the Court of Appeal. R.S.O. 1980, c. 100, ss. 31, 34.

Appeal to
Court of
Appeal

(2) An appeal lies to the Divisional Court from a final order of a judge of the District Court,

Appeal to
Divisional
Court

- (a) for a single payment of not more than \$25,000, exclusive of costs;
- (b) for periodic payments that amount to not more than \$25,000, exclusive of costs, in the twelve months commencing on the date the first payment is due under the order; 
- (c) dismissing a claim for an amount that is not more than the amount set out in clause (a) or (b); or

- (d) dismissing a claim for an amount that is more than the amount set out in clause (a) or (b) and in respect of which the judge indicates that if the claim had been allowed the amount awarded would have been not more than the amount set out in clause (a) or (b). *New.*

Appeal from
interlocutory
orders

(3) Subject to subsection (4), an appeal from an interlocutory order of a judge of the District Court lies to the High Court. R.S.O. 1980, c. 100, s. 40.

Idem

(4) No appeal lies from an interlocutory order of a judge of the District Court made on an appeal from an interlocutory order of the Provincial Court (Family Division).

Appeal from
assessment of
costs

(5) An appeal from a certificate of assessment of costs issued in a proceeding in the District Court, where the appeal is on an issue in respect of which an objection was served under the Rules of Civil Procedure, lies to the High Court. *New.*

OFFICERS

Local
registrars

37.—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint a local registrar of the District Court for each county and district and additional local registrars for such counties and districts as are indicated in the appointment. R.S.O. 1980, c. 100, s. 4 (1).

Deputy local
registrar

(2) With the approval of the Attorney General, every local registrar of the District Court may appoint in writing a deputy local registrar who may exercise and perform all the powers and duties of the local registrar. R.S.O. 1980, c. 223, s. 85.

PART III

UNIFIED FAMILY COURT

Unified
Family Court

38. The Unified Family Court is continued as a court of record in and for the Judicial District of Hamilton-Wentworth. R.S.O. 1980, c. 515, s. 2.

Jurisdiction
of judges

39.—(1) The Unified Family Court shall be presided over by a judge of the District Court who is a local judge of the High Court and who is authorized under subsection (2) to exercise the jurisdiction of a judge of the Provincial Court (Family Division). R.S.O. 1980, c. 515, s. 3 (1, 6).

Authority for
family court
matters

(2) The Lieutenant Governor in Council may authorize a judge of the District Court who is a local judge of the High

Court to exercise the jurisdiction of a judge of the Provincial Court (Family Division). R.S.O. 1980, c. 515, s. 3 (2, 6).

(3) All the jurisdiction of the Supreme Court or a judge thereof under the statutory provisions set out in the Schedule to this Part, other than by way of appeal, may be exercised by a local judge of the High Court who is a judge who may preside over the Unified Family Court. R.S.O. 1980, c. 515, s. 3 (3); 1982, c. 21, s. 1.

Jurisdiction
of local
judge of
High Court

(4) A judge who may preside over the Unified Family Court shall exercise his or her jurisdiction as a local judge of the High Court, a judge of the District Court, or a judge of the Provincial Court (Family Division) in the matters in which the Supreme Court, the District Court, or the Provincial Court (Family Division) or a judge thereof has jurisdiction under the statutory provisions set out in the Schedule to this Part. R.S.O. 1980, c. 515, s. 3 (4, 6).

Exercise of
existing
jurisdiction

40.—(1) Proceedings taken in a court in the Judicial District of Hamilton-Wentworth under the statutory provisions set out in the Schedule to this Part, other than by way of appeal, shall be commenced and titled in the Unified Family Court and the jurisdiction of the court shall be exercised in the Unified Family Court. R.S.O. 1980, c. 515, s. 4 (1).

Proceedings
in Unified
Family Court

(2) A motion for interim relief under the *Divorce Act* (Canada), the *Family Law Reform Act* or the *Children's Law Reform Act* in a proceeding in the Supreme Court or District Court that is required or permitted by the Rules of Civil Procedure or an order of the court to be heard in the Judicial District of Hamilton-Wentworth, shall be heard in the Unified Family Court. *New.*

Idem
R.S.C. 1970,
c. D-8;
R.S.O. 1980,
cc. 152, 68

Section

(3) The court has and may exercise the same *parens patriae* powers as the Supreme Court in respect of any matter before it. R.S.O. 1980, c. 515, s. 4 (3).

*Parens
patriae*
powers

(4) All proceedings commenced in or transferred to the Unified Family Court shall be heard and determined without a jury. R.S.O. 1980, c. 515, s. 7 (2).

No jury

41. Where a proceeding is commenced in the Unified Family Court in a matter over which jurisdiction may be exercised in the Unified Family Court and is combined with a related matter in the jurisdiction of the judge but respecting which jurisdiction may not be exercised in the Unified Family Court, the court may, with leave of the judge and the consent of the parties, hear and determine the combined matters. R.S.O. 1980, c. 515, s. 5.

Consent to
jurisdiction

Orders of
predecessor
court
R.S.O. 1980,
c. 152

42.—(1) The Unified Family Court may hear and determine an application under the *Family Law Reform Act* to discharge, vary or suspend an order made by the Provincial Court (Family Division) of the Judicial District of Hamilton-Wentworth. R.S.O. 1980, c. 515, s. 6 (1).

Enforcement

(2) The Unified Family Court may enforce orders made by the Provincial Court (Family Division) of the Judicial District of Hamilton-Wentworth. R.S.O. 1980, c. 515, s. 23 (3).

Powers

43.—(1) In all proceedings in which jurisdiction may be exercised in the Unified Family Court, the court has the same powers as the Supreme Court to conduct its proceedings, grant remedies and enforce its orders and other process. R.S.O. 1980, c. 515, s. 8 (1).

Contempt

(2) The Unified Family Court may punish by fine or imprisonment, or by both, any wilful contempt of or resistance to its process, rules or orders, or to an order of the Supreme Court or the County Court of the Judicial District of Hamilton-Wentworth made before the 1st day of July, 1977 in a matter that is in the jurisdiction of the Unified Family Court, but the fine shall not in any case exceed \$10,000 nor shall the imprisonment exceed six months. R.S.O. 1980, c. 515, s. 12 (1); 1982, c. 21, s. 5.

Application
of R.S.O.
1980, c. 103,
s. 4 (3)

(3) Subsection 4 (3) of the *Creditors' Relief Act* applies to a garnishment issued by the Unified Family Court. 1982, c. 21, s. 3 (2).

Place where
proceedings
commenced

44.—(1) Subject to subsection (2), proceedings referred to in subsection 40 (1) may be commenced in the Unified Family Court where the applicant or the respondent resides in the Judicial District of Hamilton-Wentworth. R.S.O. 1980, c. 515, s. 9 (1); 1982, c. 21, s. 4 (1).

Idem,
custody or
access
R.S.O. 1980,
c. 68

(2) An application under Part III of the *Children's Law Reform Act* in respect of a child who ordinarily resides in the Judicial District of Hamilton-Wentworth may be commenced in the Unified Family Court. 1982, c. 21, s. 4 (2).

Transfer to
other court

(3) A judge who may preside over the Unified Family Court may, upon motion, order that a proceeding commenced in the Unified Family Court be transferred to the appropriate court in a place where there is no Unified Family Court where, in the opinion of the judge, there is a preponderance of convenience for the matter to be dealt with by that court.

Transfer
from other
court

(4) A judge of a court having jurisdiction in a proceeding referred to in subsection 40 (1) in a county or district other

than the Judicial District of Hamilton-Wentworth may, upon motion, order that the proceeding be transferred to the Unified Family Court where, in the opinion of the judge, there is a preponderance of convenience for the matter to be dealt with by that court.

(5) A judge making an order under subsection (3) or (4) may give such directions for the transfer as are considered just. R.S.O. 1980, c. 515, s. 9 (2-4). Directions

45. An order of a judge presiding over the Unified Family Court made in the exercise of his or her jurisdiction as a local judge of the High Court or a judge of the District Court is an order of the Supreme Court or the District Court, respectively, for all purposes. R.S.O. 1980, c. 515, s. 14. Status of orders

46.—(1) Subject to subsections (2) and (3), a provision for an appeal from an order made under the statutory provisions set out in the Schedule to this Part applies to the order when made in the exercise of the jurisdiction by a judge presiding over the Unified Family Court. R.S.O. 1980, c. 515, s. 15 (1). Appeals

(2) Where an order made by the Unified Family Court under a statutory provision set out in the Schedule to this Part is within the jurisdiction of the Supreme Court or the District Court outside the Judicial District of Hamilton-Wentworth, the order shall, for the purposes of an appeal, be deemed to have been made by a judge of the High Court. *New.* Idem

(3) A provision for an appeal to the District Court or a judge thereof from an order that is made by the Unified Family Court under the statutory provisions set out in the Schedule to this Part shall be deemed to provide for an appeal to the High Court. Idem

(4) Where no provision is made for an appeal from an order of a judge presiding over the Unified Family Court, an appeal lies, Idem

(a) to the Court of Appeal from a final order, except an order referred to in clause (b);

(b) to the Divisional Court from a final order,

(i) for a single payment of not more than \$25,000, exclusive of costs,

(ii) for periodic payments that amount to not more than \$25,000, exclusive of costs, in the

twelve months commencing on the date the first payment is due under the order, ▲

(iii) dismissing a claim for an amount that is not more than the amount set out in subclause (i) or (ii), or

(iv) dismissing a claim for an amount that is more than the amount set out in subclause (i) or (ii) and in respect of which the judge indicates that if the claim had been allowed the amount awarded would have been not more than the amount set out in subclause (i) or (ii); or

(c) to the High Court from an interlocutory order. R.S.O. 1980, c. 515, s. 15 (2, 3).

Criminal
jurisdiction
R.S.C. 1970,
c. C-34

47.—(1) A judge presiding over the Unified Family Court has all the powers of a magistrate under the *Criminal Code* (Canada) for the purposes of proceedings under the *Criminal Code* (Canada) and the Unified Family Court,



(a) shall be deemed to be and shall sit as the Provincial Offences Court for the purpose of dealing with young persons as defined in the *Provincial Offences Act*; and

R.S.O. 1980,
c. 400

S.C.,
c. 80-81-82-
83,
c. 110

(b) is a youth court for the purposes of the *Young Offenders Act* (Canada). R.S.O. 1980, c. 515, s. 17; 1983, c. 80, s. 3; 1983, c. 86, s. 1.

Repeal of
s. (1) (b)

(2) Clause (1) (b) is repealed on the 1st day of April, 1985. 1983, c. 86, s. 2. ▲

Clerk

R.S.O. 1980,
c. 418

48.—(1) A clerk of the Unified Family Court shall be appointed for the court under the *Public Service Act*. R.S.O. 1980, c. 515, s. 17.



Idem

(2) The clerk of the Unified Family Court is the clerk of that court sitting as the Provincial Offences Court. 1983, c. 80, s. 2 (4). ▲

Conciliation
service

49. A conciliation service may be established, maintained and operated as part of the Unified Family Court. R.S.O. 1980, c. 515, s. 18.



Regulations


50. The Lieutenant Governor in Council may make regulations,

- (a) specifying the returns to be made by the Unified Family Court;
- (b) prescribing the functions of and providing for a conciliation service under this Part;
- (c) prescribing the duties of the officers and employees of the Unified Family Court or of any class of such officers or employees;
- (d) providing for a system of statistical records relating to the Unified Family Court. R.S.O. 1980, c. 515, s. 22.

51.—(1) The Lieutenant Governor in Council may make ^{Rules} rules for the Unified Family Court in relation to the practice and procedure of the court and may make rules for the court, even though they alter or conform to the substantive law, in relation to,

- (a) conduct of proceedings in the court;
- (b) joinder of claims and parties, and representation of parties;
- (c) commencement of proceedings and service of process in or outside Ontario;
- (d) discovery and other forms of disclosure before hearing, including the scope thereof and the admissibility and use of such discovery and disclosure in a proceeding;
- (e) examination of witnesses in or out of court;
- (f) duties of clerks and other officers;
- (g) references of proceedings or issues in a proceeding and the powers of a person conducting a reference;
- (h) costs of proceedings;
- (i) enforcement of orders and process;
- (j) payment into and out of court;
- (k) any matter that is referred to in an Act as provided for by rules of court.


Idem

(2) Nothing in subsection (1) authorizes the making of rules that conflict with an Act, but rules may be made under subsection (1) supplementing the provisions of an Act in respect of practice and procedure. R.S.O. 1980, c. 515, s. 21. 

(3) The Rules of Civil Procedure and the rules of the Provincial Court (Family Division) do not apply to proceedings in the Unified Family Court. *New.*

SCHEDULE

Jurisdiction under the following statutory provisions:

Statutes	Provisions
Annulment of Marriages Act (Ontario) (Canada)	All
Child Welfare Act	Parts II, III and IV
Children's Law Reform Act	All, Except Sections 60 and 61
Children's Residential Services Act	Subs. 18 (1) except Cls. (a) and (b)
Divorce Act (Canada)	All
Education Act	Sections 29 and 30
Family Law Reform Act	All, except Part V
 Marriage Act	Sections 6 and 9
Minors' Protection Act	Section 2
Reciprocal Enforcement of Maintenance Orders Act, 1982	All
Training Schools Act	Section 8
<u>Young Offenders Act (Canada)</u>	All

R.S.O. 1980, c. 515, Sched.; 1982, c. 20, s. 5.

PART IV

PROVINCIAL COURTS

JUDGES

Appointment
of judges

52.—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint such provincial judges as are considered necessary. R.S.O. 1980, c. 398, s. 2.

(2) No person shall be appointed as a provincial judge unless he or she has been a member of the bar of one of the provinces of Canada for at least ten years. *New.* Qualifications

53.—(1) A provincial judge shall devote his or her whole time to the performance of his or her duties as a judge, except as authorized by the Lieutenant Governor in Council. Other employment

(2) Notwithstanding subsection (1), a provincial judge who, before the coming into force of this Part, had the consent of the Attorney General to act as an arbitrator or conciliator may continue to so act. R.S.O. 1980, c. 398, s. 12. Idem

54.—(1) Every provincial judge shall retire upon attaining the age of sixty-five years. Retirement

(2) Notwithstanding subsection (1), a provincial judge appointed as a full-time magistrate, judge of a juvenile and family court or master after the 1st day of July, 1941 and before the 2nd day of December, 1968 shall retire upon attaining the age of seventy years. Idem

(3) Notwithstanding subsection (1), a provincial judge appointed as a full-time magistrate on or before the 1st day of July, 1941 shall retire upon attaining the age of seventy-five years. R.S.O. 1980, c. 398, s. 5 (1-3). Idem

(4) A judge who has attained the age for retirement under subsection (1) may, subject to the annual approval of the Chief Judge, continue in office as a full-time or part-time judge until he or she attains the age of seventy years, and a judge who has attained the age of seventy years may, subject to the annual approval of the Judicial Council, continue in office as a full-time or part-time judge until he or she has attained the age of seventy-five years. Continuation of judges in office

(5) An associate chief judge or senior judge who is in office upon attaining the age for retirement under subsection (1) may, subject to the annual approval of the Chief Judge, continue in that office until he or she has attained the age of seventy years and an associate chief judge or senior judge who has attained the age of seventy years may, subject to the annual approval of the Judicial Council, continue in that office until he or she has attained the age of seventy-five years. Continuation of associate chief judge and senior judges in office

(6) A chief judge who is in office upon attaining the age for retirement under subsection (1) or (2) may, subject to the annual approval of the Judicial Council, continue in that office until he or she has attained the age of seventy-five years. R.S.O. 1980, c. 398, s. 5 (4, 5, 6); 1983, c. 18, s. 1. Continuation of chief judge in office

Resignation

55. A provincial judge may at any time resign from his or her office in writing, signed by the judge and delivered to the Lieutenant Governor. R.S.O. 1980, c. 398, s. 6.

Removal for cause

56.—(1) A provincial judge may be removed from office before attaining retirement age only if,

- (a) a complaint regarding the judge has been made to the Judicial Council; and
- (b) the removal is recommended by an inquiry held under section 61 on the ground that the judge has become incapacitated or disabled from the due execution of his or her office by reason of,
 - (i) infirmity,
 - (ii) conduct that is incompatible with the execution of his or her office, or
 - (iii) having failed to perform the duties of his or her office. R.S.O. 1980, c. 398, s. 4 (1).

Order for removal

(2) An order removing a provincial judge from office under this section may be made by the Lieutenant Governor on the address of the Legislative Assembly. R.S.O. 1980, c. 398, s. 4 (3).

Judicial Council

57.—(1) The Judicial Council for Provincial Judges is continued and shall be composed of,

- (a) the Chief Justice of Ontario, who shall preside over the Judicial Council;
- (b) the Chief Justice of the High Court;
- (c) the Chief Judge of the District Court;
- (d) the Chief Judge of the Provincial Court (Criminal Division);
- (e) the Chief Judge of the Provincial Court (Family Division);
- (f) the Chief Judge of the Provincial Court (Civil Division);
- (g) the Treasurer of The Law Society of Upper Canada; and

- (h) not more than two other persons appointed by the Lieutenant Governor in Council. R.S.O. 1980, c. 398, s. 7 (1).

(2) Where the Judicial Council is considering any matter relating to a master, the Senior Master is entitled to be present and participate as a member of the Council. *New.*

Senior
Master

(3) A majority of members of the Judicial Council constitutes a quorum and is sufficient for the exercise of all the jurisdiction and powers of the Judicial Council.

Quorum

(4) Such officers and employees of the Judicial Council as are considered necessary may be appointed under the *Public Service Act*. R.S.O. 1980, c. 398, s. 7 (2, 3).

Staff
R.S.O. 1980,
c. 418

(5) The Judicial Council may engage persons, including counsel, to assist it in its investigations. *New.*

Expert
assistance

58.—(1) The functions of the Judicial Council are,

Functions

- (a) to consider all proposed appointments of provincial judges and make a report thereon to the Attorney General;
- (b) to receive and investigate complaints against provincial judges. R.S.O. 1980, c. 398, s. 8 (1).

(2) No action or other proceeding for damages shall be instituted against the Judicial Council or any member or officer thereof or any person acting under its authority for any act done in good faith in the execution or intended execution of its or his or her duty. R.S.O. 1980, c. 398, s. 8 (6).

Liability for
damages

59.—(1) Where the Judicial Council receives a complaint against a provincial judge, it shall take such action to investigate the complaint as it considers advisable. R.S.O. 1980, c. 398, s. 8 (1) (c).

Investigation
of complaints

(2) The Judicial Council may transmit such complaints as it considers appropriate to the Chief Judge of the Provincial Court (Criminal Division), the Chief Judge of the Provincial Court (Family Division), the Chief Judge of the Provincial Court (Civil Division) or the Senior Master, as it considers appropriate. R.S.O. 1980, c. 398, s. 8 (2).

Referral to
Chief Judges

(3) The proceedings of the Judicial Council shall not be public, but it may inform the Attorney General respecting matters that it has investigated and the Attorney General may

Proceedings
not public

make public the fact that an investigation has been undertaken. R.S.O. 1980, c. 398, s. 8 (4).

Prohibiting
publication

(4) The Judicial Council may order that information or documents relating to its proceedings not be published or disclosed except as required by law. *New.*

Powers

R.S.O. 1980,
c. 411

(5) The Judicial Council has all the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act. R.S.O. 1980, c. 398, s. 8 (5).

Notice of
disposition

(6) Where the Judicial Council has dealt with a complaint regarding a provincial judge, it shall inform,

- (a) the person who made the complaint; and
- (b) where the complaint was brought to the attention of the judge, the judge,

of its disposition of the complaint. *New.*

Report and
recommen-
dations

(7) The Judicial Council may report its opinion regarding the complaint to the Attorney General and may recommend,

- (a) that an inquiry be held under section 60;
- (b) that the judge be compensated for all or part of the costs incurred by the judge relating to the investigation. R.S.O. 1980, c. 398, s. 8 (3).

Copy to
judge

(8) A copy of a report made under subsection (7) shall be given to the judge.

Right to be
heard

(9) The Judicial Council shall not make a report under subsection (7) unless the judge was notified of the investigation and given an opportunity to be heard and to produce evidence on his or her behalf.

Publication
of report

(10) Where the Judicial Council makes a report to the Attorney General under subsection (7), the Attorney General may make all or part of the report public, if he or she is of the opinion that it is in the public interest to do so. *New.*

Inquiry

60.—(1) The Lieutenant Governor in Council may appoint a judge of the Supreme Court to inquire into the question whether a provincial judge should be removed from office.

(2) The *Public Inquiries Act* applies to an inquiry under subsection (1). R.S.O. 1980, c. 398, s. 4 (2). Powers

(3) The report of the inquiry may recommend, Report

- (a) that the judge be removed from office;
- (b) that the judge be compensated for all or part of the costs incurred by the judge relating to the inquiry. *New.*

(4) The report of the inquiry shall be laid before the Legislative Assembly if it is in session or, if not, within fifteen days of the commencement of the next ensuing session. R.S.O. 1980, c. 398, s. 4 (3). Tabling of report

61.—(1) Every provincial judge has jurisdiction throughout Ontario and, Jurisdiction of judges

- (a) shall exercise all the powers and perform all the duties conferred or imposed on a provincial judge by or under any Act of the Legislature or of the Parliament of Canada;
- (b) subject to subsection (2), may exercise all the powers and perform all the duties conferred or imposed on a magistrate, provincial magistrate or one or more justices of the peace under any Act of the Parliament of Canada. R.S.O. 1980, c. 398, s. 9 (1) (a, c).

(2) A provincial judge shall not exercise the jurisdiction conferred on a magistrate under Part XVI of the *Criminal Code* (Canada) unless, Idem
R.S.C. 1970,
c. C-34

- (a) he or she has been a member of the bar of one of the provinces of Canada; or
- (b) he or she has acted as a provincial judge for a period of five years,

and the judge is so designated by the Lieutenant Governor in Council. R.S.O. 1980, c. 398, s. 9 (3).

(3) Every provincial judge is a justice of the peace and commissioner for taking affidavits. R.S.O. 1980, c. 398, s. 9 (1) (d). Idem

62. Jurisdiction conferred on a provincial judge, justice of the peace or provincial court shall, in the absence of express Where procedures not provided

provision for procedures therefor in any Act, regulation or rule, be exercised in any manner consistent with the due administration of justice. R.S.O. 1980, c. 398, s. 9 (2).

Chief Judges

63.—(1) The Lieutenant Governor in Council may appoint a provincial judge as Chief Judge of the Provincial Court (Criminal Division), a provincial judge as Chief Judge of the Provincial Court (Family Division) and a provincial judge as Chief Judge of the Provincial Court (Civil Division).

Chief Judge
of Provincial
Offences
Court

(2) The Chief Judge of the Provincial Court (Criminal Division) is Chief Judge of the Provincial Offences Court. R.S.O. 1980, c. 398, s. 10 (1, 2).

Idem

(3) The Chief Judge of the Provincial Court (Family Division) is the Chief Judge of the Provincial Court (Family Division) sitting as the Provincial Offences Court.

Idem

(4) Subsection (2) does not apply to the Unified Family Court sitting as the Provincial Offences Court. 1983, c. 80, s. 2 (1).

Duties of
Chief Judge

(5) Each Chief Judge has general supervision and direction over the sittings of his or her court and the assignment of the judicial duties of the court except that in counties and districts where the Provincial Court (Civil Division) is presided over by a judge of the District Court, the Chief Judge of the District Court and, subject to the authority of the Chief Judge, the senior judge of the District Court in that county or district has general supervision and direction over the sittings of the court and the assignment of the judicial duties of the court.

Associate
Chief Judge

(6) The Lieutenant Governor in Council may appoint a provincial judge as Associate Chief Judge of the Provincial Court (Criminal Division) and a provincial judge as Associate Chief Judge of the Provincial Court (Family Division). R.S.O. 1980, c. 398, s. 10 (3, 4).

Absence of
Chief Judge

(7) Where the Chief Judge is absent from Ontario or is for any reason unable to act, all the powers and duties of the Chief Judge shall be exercised and performed by the Associate Chief Judge or, where both are absent or unable to act, by a judge designated by the Chief Judge. *New.*

Senior judges

64.—(1) The Lieutenant Governor in Council may designate a provincial judge to be a senior judge of the Provincial Court (Criminal Division), Provincial Court (Family Division) or Provincial Court (Civil Division), for such area as is named in the designation. R.S.O. 1980, c. 398, s. 11.

(2) A senior judge shall, subject to the authority of the chief judge, direct and supervise the sittings and the assignment of the judicial duties of the court in the area. *New.* Duties

65. A chief judge, associate chief judge or senior judge who has, Election to revert to office of judge

(a) continued in one or more of those offices for at least five years; or

(b) continued in office after attaining the age for retirement,

may elect by notice to the Attorney General to cease to perform the duties of that office and to assume the office of a provincial judge only. *New.*

PROVINCIAL COURT (CRIMINAL DIVISION)

66.—(1) The provincial courts (criminal division) for the counties and districts are amalgamated and continued as a single court of record named the Provincial Court (Criminal Division). Provincial Court (Criminal Division)

(2) The Provincial Court (Criminal Division) shall be presided over by a provincial judge. R.S.O. 1980, c. 398, s. 14. Judge to preside

67. A provincial judge shall exercise the powers and perform the duties vested in him or her as a magistrate, provincial magistrate or one or more justices of the peace under section 62 sitting in the Provincial Court (Criminal Division). R.S.O. 1980, c. 398, s. 15. Exercise of criminal jurisdiction


PROVINCIAL OFFENCES COURT

68.—(1) The provincial offences courts for the counties and districts are amalgamated and continued as a single court of record named the Provincial Offences Court. Provincial Offences Court

(2) The Provincial Offences Court shall be presided over by a provincial judge or justice of the peace. R.S.O. 1980, c. 398, s. 18 (1). Judge or justice of the peace to preside

69. The Provincial Offences Court shall perform any function assigned to it by or under the *Provincial Offences Act* or any other Act. R.S.O. 1980, c. 398, s. 18 (2). Jurisdiction R.S.O. 1980, c. 400

70.—(1) A proceeding in the Provincial Offences Court against a young person as defined in the *Provincial Offences Act* shall be conducted in the Provincial Court (Family Divi- Sittings: young persons

sion) or, in the Judicial District of Hamilton-Wentworth, in the Unified Family Court, sitting as the Provincial Offences Court. 1983, c. 80, s. 2 (2). 

Joint sittings (2) Where a proceeding in which the Provincial Offences Court has jurisdiction is conducted during the course of a sitting of the Provincial Court (Criminal Division) or Provincial Court (Family Division), the proceeding shall be deemed to be conducted in the Provincial Offences Court. R.S.O. 1980, c. 398, s. 19 (2).

Contempt **71.**—(1) Except as otherwise provided by an Act, every person who commits contempt in the face of the Provincial Offences Court is on conviction liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both.

Statement to offender (2) Before proceedings are taken for contempt under subsection (1), the court shall inform the offender of the conduct complained of and the nature of the contempt and inform him or her of the right to show cause why he or she should not be punished.

Show cause (3) A punishment for contempt in the face of the court shall not be imposed without giving the offender an opportunity to show cause why he or she should not be punished.

Adjournment for adjudication (4) Except where, in the opinion of the court, it is necessary to deal with the contempt immediately for the preservation of order and control in the courtroom, the court shall adjourn the contempt proceeding to another day.

Adjudication by judge (5) Where a contempt proceeding is adjourned to another day under subsection (4), the contempt proceeding shall be heard and determined by the court presided over by a provincial judge.

Arrest for immediate adjudication (6) Where the court proceeds to deal with a contempt immediately and without adjournment under subsection (4), the court may order the offender arrested and detained in the courtroom for the purpose of the hearing and determination.

Barring agent in contempt (7) Where the offender is appearing before the court as an agent who is not a barrister and solicitor entitled to practise in Ontario, the court may order that he or she be barred from acting as agent in the proceeding in addition to any other punishment to which he or she is liable.

Appeals (8) An order of punishment for contempt under this section is appealable in the same manner as if it were a conviction in

proceedings commenced by certificate under Part I of the *Provincial Offences Act*.

R.S.O. 1980,
c. 400

(9) The *Provincial Offences Act* applies for the purpose of enforcing a punishment by way of a fine or imprisonment under this section. R.S.O. 1980, c. 398, s. 20.

Enforcement
R.S.O. 1980,
c. 400

72. Any person who knowingly disturbs or interferes with the proceedings of the Provincial Offences Court, without reasonable justification, while outside the courtroom is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both. R.S.O. 1980, c. 398, s. 21.

Penalty for
disturbance
outside
courtroom

73.—(1) There shall be a Rules Committee of the Provincial Offences Court composed of such members as are appointed by the Lieutenant Governor in Council who shall designate one of the members to preside over the Committee.

Rules
Committee

(2) A majority of the members of the Rules Committee constitutes a quorum. *New.*

Quorum

(3) Subject to the approval of the Lieutenant Governor in Council, the Rules Committee of the Provincial Offences Court may make rules,

Rules

- (a) regulating any matters relating to the practice and procedure of the Provincial Offences Court;
- (b) prescribing forms respecting proceedings in the court;
- (c) regulating the duties of the clerks and employees of the court;
- (d) prescribing and regulating the procedures under any Act that confers jurisdiction on the Provincial Offences Court or a judge or justice of the peace sitting therein;
- (e) prescribing any matter that is referred to in an Act as provided for by the rules of the Provincial Offences Court. R.S.O. 1980, c. 398, s. 22.

PROVINCIAL COURT (FAMILY DIVISION)

74.—(1) The provincial courts (family division) for the counties and districts are amalgamated and continued as a single court of record named the Provincial Court (Family Division).

Provincial
Court
(Family
Division)

Judge to
preside

(2) The Provincial Court (Family Division) shall be presided over by a provincial judge. R.S.O. 1980, c. 398, s. 23 (1).



Jurisdiction

75.—(1) The Provincial Court (Family Division),

(a) shall be deemed to be and shall sit as the Provincial Offences Court for the purpose of dealing with young persons as defined in the *Provincial Offences Act*;

R.S.O. 1980,
c. 400

(b) is a youth court for the purposes of the *Young Offenders Act* (Canada); and

S.C., c. 80-
81-82-83,
c. 110

(c) shall perform any function assigned to it by or under the *Family Law Reform Act*, the *Children's Law Reform Act*, the *Child Welfare Act* or any other Act. R.S.O. 1980, c. 398, s. 23 (2); 1983, c. 80, s. 2 (3); 1983, c. 85, s. 1.

R.S.O. 1980,
cc. 152, 68,
66

Repeal of
s. (1) (b)

(2) Clause (1) (b) is repealed on the 1st day of April, 1985. 1983, c. 85, s. 2.



Rules
Committee

76.—(1) The rules committee of the provincial courts (family division) is continued as the Rules Committee of the Provincial Court (Family Division) and shall be composed of such members as are appointed by the Lieutenant Governor in Council who shall designate one of the members to preside over the committee.

Quorum

(2) A majority of the members of the Rules Committee constitutes a quorum.

Rules

(3) Subject to the approval of the Lieutenant Governor in Council, the Rules Committee of the Provincial Court (Family Division) may make rules in relation to the practice and procedure of the court and may make rules for the court, even though they alter or conform to the substantive law, in relation to,

(a) conduct of proceedings in the court;

(b) joinder of claims and parties and representation of parties;

(c) commencement of proceedings and service of process in or outside Ontario;

(d) discovery and other forms of disclosure before hearing, including the scope thereof and the admissibil-

ity and use of such discovery and disclosure in a proceeding;

- (e) examination of witnesses in or out of court;
- (f) duties of clerks and other officers;
- (g) costs of proceedings;
- (h) enforcement of orders and process;
- (i) payment into and out of court;
- (j) any matter that is referred to in an Act as provided for by rules of court.

➡ (4) Nothing in subsection (3) authorizes the making of rules that conflict with an Act, but rules may be made under subsection (3) supplementing the provisions of an Act in respect of practice and procedure. R.S.O. 1980, c. 398, s. 32. ⬆ Idem

PROVINCIAL COURT (CIVIL DIVISION)

77.—(1) The small claims courts and the Provincial Court (Civil Division) are amalgamated and continued as a single court of record named the Provincial Court (Civil Division) and may also be known as the Small Claims Court. Provincial Court (Civil Division)

(2) The Provincial Court (Civil Division) shall be presided over by, Judges to preside

- (a) a provincial judge; or
- (b) a judge of the District Court.

(3) A judge of the District Court or the Chief Judge of the Provincial Court (Civil Division) may, with the approval of the Attorney General, appoint a barrister and solicitor to act as a deputy judge of the Provincial Court (Civil Division), and the person so appointed may preside over the court in actions for not more than \$1,000. R.S.O. 1980, c. 476, ss. 3, 6, 14, 15. Deputy judges

78.—(1) The Provincial Court (Civil Division), Jurisdiction

- (a) has jurisdiction in any action for the payment of money where the amount claimed does not exceed \$1,000 exclusive of interest and costs;

(b) has jurisdiction in any action for the recovery of possession of personal property where the value of the property does not exceed \$1,000; and

(c) shall perform any function assigned to it by or under an Act. R.S.O. 1980, c. 476, s. 55.

Idem

(2) In the Judicial District of York and in such other areas as are designated under clause 87 (f), the maximum claim or value of \$1,000 set out in subsection (1) shall be \$3,000 in each instance and not as set out therein. R.S.O. 1980, c. 397, s. 6 (1).

Summary
hearings

(3) The Provincial Court (Civil Division) shall hear and determine in a summary way all questions of law and fact and may make such order as is considered just and agreeable to good conscience. R.S.O. 1980, c. 476, s. 57.

Representa-
tion

79. A party may be represented in a proceeding in the Provincial Court (Civil Division) by counsel or an agent but the court may exclude from a hearing anyone, other than a barrister and solicitor qualified to practise in Ontario, appearing as an agent on behalf of a party if it finds that such person is not competent properly to represent the party or does not understand and comply at the hearing with the duties and responsibilities of an advocate. R.S.O. 1980, c. 476, s. 100.

Evidence

80.—(1) Subject to subsections (2) and (3), the Provincial Court (Civil Division) may admit as evidence at a hearing, whether or not given or proven under oath or affirmation or admissible as evidence in any other court,

(a) any oral testimony; and

(b) any document or other thing,

relevant to the subject-matter of the proceeding and may act on such evidence, but the court may exclude anything unduly repetitious.

Idem

(2) Nothing is admissible in evidence at a hearing,

(a) that would be inadmissible by reason of any privilege under the law of evidence; or

(b) that is inadmissible by any Act.

Conflicts

(3) Nothing in subsection (1) overrides the provisions of any Act expressly limiting the extent to or purposes for which any

oral testimony, documents or things may be admitted or used in evidence in any proceedings.

(4) Where the presiding judge is satisfied as to its authenticity, a copy of a document or any other thing may be admitted as evidence at a hearing. R.S.O. 1980, c. 476, s. 98. Copies

81. The Provincial Court (Civil Division) may order the times and the proportions in which money payable under an order of the court shall be paid. R.S.O. 1980, c. 476, s. 102 (1). Instalment orders

82. Orders of the Provincial Court (Civil Division) shall be directed to a bailiff appointed under subsection 86 (4) for enforcement, unless otherwise provided by the rules of the Provincial Court (Civil Division). *New.* Enforcement of orders

83. An appeal lies to the Divisional Court from a final order of the Provincial Court (Civil Division) in an action, Appeals

(a) for the payment of money in excess of \$500, excluding costs; or

(b) for the recovery of possession of personal property exceeding \$500 in value. R.S.O. 1980, c. 476, s. 108.

84.—(1) An action in the Supreme Court or the District Court in which, Transfer from Supreme or District Court

(a) the only claim is for the payment of money or the recovery of possession of personal property; and

(b) the claim is within the jurisdiction of the Provincial Court (Civil Division),

may be transferred to the Provincial Court (Civil Division) by the local registrar of the Supreme Court or District Court in the county or district where the action was commenced, upon requisition with the consent of all parties filed before the trial commences.

(2) An action transferred to the Provincial Court (Civil Division) under subsection (1) shall be titled and continued as if it had been commenced in that court. R.S.O. 1980, c. 397, s. 7 (2); 1982, c. 58, s. 5 (2). Idem

85.—(1) There shall be a Rules Committee of the Provincial Court (Civil Division) composed of such members as are Rules Committee

appointed by the Lieutenant Governor in Council who shall designate one of the members to preside over the committee.

Quorum

(2) A majority of the members of the Rules Committee constitutes a quorum.

Rules

(3) Subject to the approval of the Lieutenant Governor in Council, the Rules Committee of the Provincial Court (Civil Division) may make rules in relation to the practice and procedure of the court and may make rules for the court, even though they alter or conform to the substantive law, in relation to,

- (a) conduct of proceedings in the court;
- (b) joinder of claims and parties, settlement of claims by or against persons under disability, whether or not a proceeding has been commenced in respect of the claim, and representation of parties;
- (c) commencement of proceedings and service of process in or outside Ontario;
- (d) disposition of proceedings without a hearing and the effect thereof;
- (e) pleadings;
- (f) discovery and other forms of disclosure before hearing, including the scope thereof and the admissibility and use of such discovery and disclosure in a proceeding;
- (g) examination of witnesses in or out of court;
- (h) duties of clerks and other officers;
- (i) motions;
- (j) preservation of rights of parties pending the outcome of litigation, including sale, recovery of possession or preservation of property;
- (k) preparation for trial and offers to settle and their legal consequences;
- (l) the mode and conduct of trials;
- (m) costs of proceedings;

- (n) enforcement of orders and process;
- (o) payment into and out of court;
- (p) any matter that is referred to in an Act as provided for by rules of court.

(4) Nothing in subsection (3) authorizes the making of rules that conflict with an Act, but rules may be made under subsection (3) supplementing the provisions of an Act in respect of practice and procedure. *New.*

OFFICERS

86.—(1) There shall be such clerks for the Provincial Court (Criminal Division) and the Provincial Court (Family Division) as are considered necessary, appointed under the *Public Service Act*.

Clerks

R.S.O. 1980,
c. 418

(2) Each clerk of the Provincial Court (Criminal Division) is a clerk of the Provincial Offences Court. R.S.O. 1980, c. 398, s. 33.

Idem

(3) Each clerk of the Provincial Court (Family Division) is the clerk of that court sitting as the Provincial Offences Court. 1983, c. 80, s. 2 (4).

Idem

(4) There shall be a clerk and one or more bailiffs for each division of the Provincial Court (Civil Division) who shall be appointed by the Lieutenant Governor in Council.

Clerk and
bailiff of
Provincial
Court (Civil
Division)

(5) The Lieutenant Governor in Council may appoint a referee for a division of the Provincial Court (Civil Division). R.S.O. 1980, c. 476, s. 20; 1983, c. 22, s. 1.

Referee

REGULATIONS

87.—(1) The Lieutenant Governor in Council may make regulations,

Regulations

- (a) specifying the returns to be made by provincial courts;
- (b) fixing the remuneration of provincial judges;
- (c) providing for the benefits to which provincial judges are entitled, including,
 - (i) leave of absence and vacations,

(ii) sick leave credits and payments in respect of such credits,

(iii) pension benefits for provincial judges and their surviving spouses and children,

and for the transfer or other disposition of benefits in respect thereof to which persons appointed as provincial judges were entitled under the *Public Service Act* or the *Public Service Superannuation Act* at the time of their appointment;

R.S.O. 1980,
cc. 418, 419

(d) prescribing the duties of the clerks and employees of provincial courts or of any class of such employees;

(e) prescribing territorial divisions for the Provincial Court (Civil Division) and the place within each division where the court office shall be located;

(f) designating areas in which the maximum claim or value of \$1,000 set out in subsection 78 (1) shall be \$3,000 in each instance and not as set out therein;

(g) providing for the retention of fees by clerks, bailiffs and referees of the Provincial Court (Civil Division) who are not civil servants under the *Public Service Act* and designating areas where clerks, bailiffs and referees of the Provincial Court (Civil Division) may be appointed to a position as a civil servant under that Act;

(h) providing for a system of statistical records relating to provincial courts. R.S.O. 1980, c. 398, s. 34 (1); R.S.O. 1980, c. 397, s. 9; 1982, c. 58, s. 6 (1) (b).

Contributions

(2) Regulations made under clause (1) (c) may require judges to contribute from their salaries part of the cost of benefits and may fix the amount of the contributions.

Application
of R.S.O.
1980, c. 419

(3) A regulation made under clause (1) (c) may modify or exclude the application of the *Public Service Superannuation Act*. 1983, c. 78, s. 2 (1).

Application
of regulations

(4) Any regulation made under subsection (1) may be general or particular in its application. R.S.O. 1980, c. 398, s. 34 (2).

88.—(1) There shall be a committee to be known as the Ontario Provincial Courts Committee, composed of three members, of whom,

- (a) one shall be appointed jointly by the Provincial Judges Association (Criminal Division), the Ontario Family Court Judges Association and the Provincial Court Judges Association of Ontario (Civil Division);
- (b) one shall be appointed by the Lieutenant Governor in Council; and
- (c) one, to be the chairman, shall be appointed jointly by the bodies referred to in clauses (a) and (b).

(2) The function of the Ontario Provincial Courts Committee is to inquire into and make recommendations to the Lieutenant Governor in Council respecting any matter relating to the remuneration, allowances and benefits of provincial judges, including the matters referred to in clauses 87 (b) and (c).

(3) The Ontario Provincial Courts Committee shall make an annual report of its activities to the Lieutenant Governor in Council.

(4) Recommendations of the Committee and its annual report under subsections (2) and (3) shall be laid before the Legislative Assembly if it is in session or, if not, within fifteen days of the commencement of the next ensuing session. 1983, c. 78, s. 2 (2).

PART V

RULES OF CIVIL PROCEDURE

89.—(1) The Rules Committee continued under the *Judicature Act*, being chapter 223 of the Revised Statutes of Ontario, 1980, is continued as the Rules Committee of the Supreme and District Courts and shall be composed of,

- (a) the Chief Justice of Ontario, the Chief Justice of the High Court, the Associate Chief Justice of Ontario and the Associate Chief Justice of the High Court;
- (b) five judges of the Supreme Court, who shall be appointed by the Chief Justice of Ontario;

- (c) the Chief Judge and Associate Chief Judge of the District Court;
- (d) four judges of the District Court, who shall be appointed by the Chief Judge of the District Court;
- (e) the Attorney General or such law officer of the Crown as the Attorney General may from time to time appoint;
- (f) the Senior Master;
- (g) the Registrar of the Supreme Court;
- (h) a sheriff or a local registrar of the Supreme or District Court, who shall be appointed by the Attorney General;
- (i) five barristers or solicitors, who shall be appointed by the Benchers of The Law Society of Upper Canada in convocation; and
- (j) five other barristers and solicitors, who shall be appointed by the Chief Justice of Ontario.

Idem

(2) The Chief Justice of Ontario shall preside over the Rules Committee but, where the Chief Justice of Ontario is absent or so requests, the Chief Justice of the High Court shall preside.

Idem

(3) The Chief Justice of Ontario and the Chief Justice of the High Court may jointly appoint either the Associate Chief Justice of Ontario or the Associate Chief Justice of the High Court to preside over the Rules Committee at such times as are set out in the appointment.

Tenure of office

(4) Each of the members of the Rules Committee appointed under clause (1) (b), (d), (h), (i) or (j) shall hold office for a period of three years and is eligible for reappointment.

Vacancies

(5) Where a vacancy occurs among the members appointed under clause (1) (b), (d), (h), (i) or (j), a new member similarly qualified may be appointed for the remainder of the unexpired term. R.S.O. 1980, c. 223, s. 116 (1-6).

Quorum

(6) A majority of the members of the Rules Committee constitutes a quorum. R.S.O. 1980, c. 223, s. 116 (7).

90.—(1) Subject to the approval of the Lieutenant Governor in Council, the Rules Committee of the Supreme and District Courts may make rules for the Supreme Court and the District Court in relation to the practice and procedure of the courts and may make rules for such courts, even though they alter or conform to the substantive law, in relation to,

Rules of
Civil
Procedure

- (a) conduct of proceedings in the courts;
- (b) joinder of claims and parties, settlement of claims by or against persons under disability, whether or not a proceeding has been commenced in respect of the claim, the binding effect of orders and representation of parties;
- (c) commencement of proceedings, representation of parties by solicitors and service of process in or outside Ontario;
- (d) disposition of proceedings without a hearing and the effect thereof;
- (e) pleadings;
- (f) discovery and other forms of disclosure before hearing, including the scope thereof and the admissibility and use of such discovery and disclosure in a proceeding;
- (g) examination of witnesses in or out of court;
- (h) jurisdiction of local judges, including the conferral on local judges of any jurisdiction of the Supreme Court or a judge thereof, including jurisdiction under an Act, but not including the trial of actions;
- (i) jurisdiction of masters, including the conferral on masters of any jurisdiction of the Supreme Court, including jurisdiction under an Act, but not including the trial of actions or jurisdiction conferred by an Act on a judge;
- (j) jurisdiction and duties of officers and hours of business for court offices;
- (k) motions and applications, including the hearing of motions in the absence of the public and prohibiting a party from making motions without leave;

- (l) preservation of rights of parties pending the outcome of litigation, including sale, recovery of possession or preservation of property;
- (m) interpleader;
- (n) preparation for trial and offers to settle and their legal consequences;
- (o) the mode and conduct of trials;
- (p) the appointment by the court of independent experts, their remuneration and the admissibility and use of their reports;
- (q) the discount rate to be used in determining the amount of an award in respect of future pecuniary damages;
- (r) references of proceedings or issues in a proceeding and the powers of a person conducting a reference;
- (s) costs of proceedings, including security for costs and a solicitor's liability for or disentitlement to costs;
- (t) enforcement of orders and process or obligations under the rules;
- (u) the time for and procedure on appeals and stays pending appeal;
- (v) payment into and out of court;
- (w) any matter that is referred to in an Act as provided for by rules of court.

Idem

(2) Nothing in subsection (1) authorizes the making of rules that conflict with an Act, but rules may be made under subsection (1) supplementing the provisions of an Act in respect of practice and procedure. R.S.O. 1980, c. 223, s. 116 (10, 11).

PART VI

COURTS ADMINISTRATION

Attorney
General's
adminis-
trative
responsibility

91. The Attorney General shall superintend all matters connected with the administration of the courts, other than matters that are assigned by law to the judiciary. *New.*

22.—(1) There shall be an advisory council to be known as the Ontario Courts Advisory Council composed of,

Ontario
Courts
Advisory
Council

- (a) the Chief Justice of Ontario who shall preside, the Chief Justice of the High Court, the Associate Chief Justice of Ontario and the Associate Chief Justice of the High Court;
- (b) the Chief Judge of the District Court, the Associate Chief Judge of the District Court and the Senior Judge of the District Court for the Judicial District of York;
- (c) the Chief Judge of the Provincial Court (Criminal Division) and the Associate Chief Judge of the Provincial Court (Criminal Division);
- (d) the Chief Judge of the Provincial Court (Family Division) and the Associate Chief Judge of the Provincial Court (Family Division); and
- (e) the Chief Judge of the Provincial Court (Civil Division).

(2) The function of the Ontario Courts Advisory Council is to consider any matter relating to the administration of the courts that is referred to it by the Attorney General or that it considers appropriate on its own initiative, and to make recommendations thereon to the Attorney General and to the chief justices and chief judges of the various courts. *New.*

Functions

23. Judges and masters who have authority to assign judicial duties have authority over the preparation of trial lists and the assignment of courtrooms to the extent necessary to control the determination of who is assigned to hear particular cases. *New.*

Trial lists,
courtrooms

24. Court administrators, court reporters, interpreters, translators and such other employees as are considered necessary for the administration of the courts in Ontario may be appointed under the *Public Service Act*. R.S.O. 1980, c. 100, s. 4 (1); R.S.O. 1980, c. 398, s. 33 (3); R.S.O. 1980, c. 515, s. 17.


Appointment
of court staff

R.S.O. 1980,
c. 418

25.—(1) In matters that are assigned by law to the judiciary, registrars, court clerks, court reporters, interpreters and other court staff shall act at the direction of the chief justice or chief judge of the court.

Direction of
court staff

Idem

(2) Court personnel referred to in subsection (1) who are assigned to and present in a courtroom shall act at the direction of the presiding judge or master while the court is in session. R.S.O. 1980, c. 101, s. 14 (2); R.S.O. 1980, c. 398, ss. 26, 33 (1). 

PART VII

JUDGES AND OFFICERS

Oath of office

26. Every judge or officer of a court in Ontario shall, before entering on the duties of office, take and sign the following oath or affirmation in either the English or French language:

I solemnly swear (affirm) that I will faithfully, and to the best of my skill and knowledge, execute the duties of
So help me God. (*Omit this line in an affirmation*)

R.S.O. 1980, c. 223, s. 84 (1).

*Persona
designata
abolished*

27. Where an adjudicative function is given by an Act to a judge or officer of a court in Ontario, the jurisdiction shall be deemed to be given to the court. *New.*

Liability of judges

28. Every judge of a court in Ontario and every master of the Supreme Court has the same immunity from liability as a judge of the Supreme Court. R.S.O. 1980, c. 223, s. 100 (4); R.S.O. 1980, c. 398, s. 13.

Compensation of judges for statutory duties

29. Every judge of the Supreme Court and of the District Court shall be paid out of the Consolidated Revenue Fund the annual sum of \$3,000, payable quarterly, as compensation for the services the judge is called on to render by any Act of the Legislature in addition to his or her ordinary duties. R.S.O. 1980, c. 149, s. 2.

Extra-judicial services

100.—(1) A judge of the Supreme Court or the District Court may act as a conciliator, arbitrator or referee or on a commission of inquiry under an Act of the Legislature or under an agreement made under any such Act.

Remuneration

(2) A judge acting under subsection (1) shall not receive any remuneration but shall be reimbursed for reasonable travelling and other expenses incurred while so acting. R.S.O. 1980, c. 149, s. 3.

Inspector of Legal Offices

101.—(1) The Lieutenant Governor in Council may appoint an Inspector of Legal Offices.

(2) The Inspector may inspect all court offices and such other offices connected with the administration of justice as the Attorney General designates. R.S.O. 1980, c. 223, s. 107 (1).

Inspection

(3) The Inspector may inquire into the administration of any office that he or she is entitled to inspect and, for that purpose, the Inspector has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the inquiry as if it were an inquiry under that Act, but the Inspector may not summon a judge or master. R.S.O. 1980, c. 223, s. 108 (2).

Inquiry by
InspectorR.S.O. 1980,
c. 411

(4) Documents and other material that are no longer required in a court office shall be disposed of in accordance with the directions of the Inspector, subject to the approval of,

Destruction
of documents

- (a) in the Supreme Court, the Chief Justice of Ontario;
- (b) in the District Court, the Unified Family Court and the surrogate courts, the Chief Judge of the District Court;
- (c) in the Provincial Court (Criminal Division) and the Provincial Offences Court, the Chief Judge of the Provincial Court (Criminal Division);
- (d) in the Provincial Court (Family Division), the Chief Judge of the Provincial Court (Family Division);
- (e) in the Provincial Court (Civil Division) in the counties and districts where a judge of the District Court presides, the Chief Judge of the District Court and in other counties and districts the Chief Judge of the Provincial Court (Civil Division). R.S.O. 1980, c. 223, s. 108 (4).

102.—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint an Official Guardian. *New.*

Official
Guardian

(2) No person shall be appointed Official Guardian unless he or she has been a member of the bar of one of the provinces of Canada for at least ten years.

Qualifications

(3) The Official Guardian shall act as litigation guardian of minors and other persons where required by an Act or the Rules of Civil Procedure, and in other cases may be authorized by a court to so act.

Duties

Costs

(4) The same costs as are payable to litigation guardians are payable to the Official Guardian and costs recovered by the Official Guardian shall be paid into the Consolidated Revenue Fund. R.S.O. 1980, c. 223, s. 109 (1-3).

Security for costs

(5) The Official Guardian shall not be required to give security for costs in any proceeding. R.S.O. 1980, c. 223, s. 109 (15).

Mortgages held by Accountant

(6) Where a person for whom the Official Guardian has acted is interested in a mortgage held by the Accountant, the Official Guardian shall take reasonable care to ensure that,

- (a) money payable on the mortgage is promptly paid;
- (b) the mortgaged property is kept properly insured; and
- (c) taxes on the mortgaged property are promptly paid.

Payment into court

(7) Money received by the Official Guardian on behalf of a person for whom he or she acts shall, unless the court orders otherwise, be paid into court to the credit of the person entitled.

Assessment of costs

(8) Where the amount payable into court under subsection (7) is to be ascertained by the deduction of unassessed costs from a fund, the Official Guardian may require the costs to be assessed forthwith. *New.*

Audit

(9) The Provincial Auditor shall examine and report on the accounts and financial transactions of the Official Guardian. R.S.O. 1980, c. 223, s. 109 (12).

Assessment officers

103.—(1) The Registrar of the Supreme Court of Ontario, each master, local registrar and deputy local registrar of the Supreme Court, local registrar and deputy local registrar of the District Court and the clerk of the Unified Family Court is an assessment officer.

Idem


(2) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint additional assessment officers.

Jurisdiction

(3) Every assessment officer has the jurisdiction conferred by the Rules of Civil Procedure.

Appeal from assessment of costs before tribunal

(4) Where costs of a proceeding before a tribunal other than a court are to be assessed by an assessment officer,

- (a) the Rules of Civil Procedure governing the procedure on an assessment of costs apply with necessary modifications; and
- (b) an appeal lies to the High Court from a certificate of assessment of the costs if an objection was served in respect of the issue appealed in accordance with the Rules of Civil Procedure. *New.* 

104.—(1) Every local registrar and deputy local registrar of the Supreme Court and local registrar and deputy local registrar of the District Court is an official examiner for the county or district for which he or she is appointed.

Official
examiners

(2) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint additional official examiners. R.S.O. 1980, c. 223, s. 104 (1, 2).

Additional
official
examiners

(3) With the approval of the Attorney General, every official examiner may appoint a deputy official examiner who may exercise and perform all the powers and duties of the official examiner. R.S.O. 1980, c. 223, s. 104 (7).

Deputy
official
examiners

(4) Every official examiner and deputy official examiner is an officer of every court in Ontario. *New.*

Officers of
court

105. Every officer of a court has, for the purposes of any matter before him or her, power to administer oaths and affirmations and to examine parties and witnesses. R.S.O. 1980, c. 223, s. 124.

Administra-
tion of oaths

106. Money or property vested in or held by an officer of a court shall be deemed to be vested in the officer in trust for Her Majesty, subject to being disposed of in accordance with any Act, rule of court or order. R.S.O. 1980, c. 223, s. 112.

Money held
by officer of
court

107.—(1) All fees payable to a salaried officer of a court in respect of a proceeding in the court shall be paid into the Consolidated Revenue Fund.

Disposition
of court fees

(2) Subsection (1) does not apply to fees payable to court reporters under the *Administration of Justice Act*. R.S.O. 1980, c. 101, s. 10; R.S.O. 1980, c. 223, s. 87.

Exception
R.S.O. 1980,
c. 17

PART VIII

COURT PROCEEDINGS

108.—(1) This Part applies to civil proceedings in courts of Ontario.

Application
of Part

Application
to criminal
proceedings

R.S.C. 1970,
c. C-34

(2) Sections 122 (constitutional questions) and 133 (giving decisions), section 135 and subsection 136 (7) (language of proceedings) and sections 142 (judge sitting on appeal) and 146 (prohibition against photography at court hearing) also apply to proceedings under the *Criminal Code* (Canada), except in so far as they are inconsistent with that Act.

Application
to provincial
offences

R.S.O. 1980,
c. 400

(3) Sections 122 (constitutional questions), 135, 136 (language of proceedings), 142 (judge sitting on appeal) and 146 (prohibition against photography at court hearings) also apply to proceedings under the *Provincial Offences Act* and, for the purpose, a reference therein to a judge includes a justice of the peace presiding in the Provincial Offences Court. *New.*

COMMON LAW AND EQUITY

Rules of law
and equity

109.—(1) Courts shall administer concurrently all rules of equity and the common law. R.S.O. 1980, c. 223, s. 18.

Rules of
equity to
prevail

(2) Where a rule of equity conflicts with a rule of the common law, the rule of equity prevails.

Jurisdiction
for equitable
relief

(3) Unless otherwise provided, only the Supreme Court, the District Court and the Unified Family Court may grant equitable relief. R.S.O. 1980, c. 223, ss. 25, 26.

Declaratory
orders

110. The Supreme Court, the District Court and the Unified Family Court may make binding declarations of right whether or not any consequential relief is or could be claimed. R.S.O. 1980, c. 223, s. 18, par. 2.

Relief against
penalties

111. A court may grant relief against penalties and forfeitures, on such terms as to compensation or otherwise as are considered just. R.S.O. 1980, c. 228, s. 22.

Damages in
lieu of
injunction or
specific
performance

112. A court that has jurisdiction to grant an injunction or order specific performance may award damages in addition to, or in substitution for, the injunction or specific performance. R.S.O. 1980, c. 223, s. 21.

Vesting
orders

113. A court may by order vest in any person an interest in real or personal property that the court has authority to order be disposed of, encumbered or conveyed. R.S.O. 1980, c. 223, s. 79.

INTERLOCUTORY ORDERS

Injunctions
and receivers

114.—(1) In the Supreme Court, the District Court or the Unified Family Court, an interlocutory injunction or manda-

tory order may be granted or a receiver or receiver and manager may be appointed by an interlocutory order, where it appears to a judge of the court to be just or convenient to do so.

(2) An order under subsection (1) may include such terms as are considered just. R.S.O. 1980, c. 223, s. 19 (1). Terms

115.—(1) In this section, “labour dispute” means a dispute or difference concerning terms, tenure or conditions of employment or concerning the association or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee. “labour dispute” defined

(2) Subject to subsection (8), no injunction to restrain a person from an act in connection with a labour dispute shall be granted without notice. Notice

(3) In a motion or proceeding for an injunction to restrain a person from an act in connection with a labour dispute, the court must be satisfied that reasonable efforts to obtain police assistance, protection and action to prevent or remove any alleged danger of damage to property, injury to persons, obstruction of or interference with lawful entry or exit from the premises in question or breach of the peace have been unsuccessful. Steps before injunction proceeding

(4) Subject to subsection (8), affidavit evidence in support of a motion for an injunction to restrain a person from an act in connection with a labour dispute shall be confined to statements of facts within the knowledge of the deponent, but any party may by notice to the party filing such affidavit, and payment of the proper attendance money, require the attendance of the deponent to be cross-examined at the hearing. Evidence

(5) An interim injunction to restrain a person from an act in connection with a labour dispute may be granted for a period of not longer than four days. Interim injunction

(6) Subject to subsection (8), at least two days notice of a motion for an interim injunction to restrain a person from any act in connection with a labour dispute shall be given to the responding party and to any other person affected thereby but not named in the notice of motion. Notice

(7) Notice required by subsection (6) to persons other than the responding party may be given, Idem

- (a) where such persons are members of a labour organization, by personal service on an officer or agent of the labour organization; and
- (b) where such persons are not members of a labour organization, by posting the notice in a conspicuous place at the location of the activity sought to be restrained where it can be read by any persons affected,

and service and posting under this subsection shall be deemed to be sufficient notice to all such persons.

Interim
injunction
without
notice

(8) Where notice as required by subsection (6) is not given, the court may grant an interim injunction where,

- (a) the case is otherwise a proper one for the granting of an interim injunction;
- (b) notice as required by subsection (6) could not be given because the delay necessary to do so would result in irreparable damage or injury, a breach of the peace or an interruption in an essential public service;
- (c) reasonable notification, by telephone or otherwise, has been given to the persons to be affected or, where any of such persons are members of a labour organization, to an officer of that labour organization or to the person authorized under section 87 of the *Labour Relations Act* to accept service of process under that Act on behalf of that labour organization or trade union, or where it is shown that such notice could not have been given; and
- (d) proof of all material facts for the purpose of clauses (a), (b) and (c) is established by oral evidence.

R.S.O. 1980,
c. 228

Misrepresenta-
tion as
contempt of
court

(9) The misrepresentation of any fact or the withholding of any qualifying relevant matter, directly or indirectly, in a proceeding for an injunction under this section, constitutes a contempt of court.

Appeal

(10) An appeal from an order under this section lies to the Court of Appeal without leave. R.S.O. 1980, c. 223, s. 20.

Certificate of
pending
litigation

116.—(1) The commencement of a proceeding in which an interest in land is in question is not notice of the proceeding to a person who is not a party until a certificate of pending litigation is issued by the court and the certificate is registered

in the proper land registry office under subsection (2). R.S.O. 1980, c. 223, s. 38 (1).

(2) Where a certificate of pending litigation is issued under subsection (1) it may be registered whether the land is registered under the *Land Titles Act* or the *Registry Act*. *New.*

Registration

R.S.O. 1980,
cc. 230, 445

(3) Subsections (1) and (2) do not apply to a proceeding for foreclosure or sale on a registered mortgage or to enforce a lien under the *Construction Lien Act, 1983*.

Exception

1983, c. 6

(4) A party who registers a certificate under subsection (2) without a reasonable claim to an interest in the land is liable for any damages sustained by any person as a result of its registration.

Liability
where no
reasonable
claim

(5) The liability for damages under subsection (4) and the amount thereof may be determined in the proceeding in respect of which the certificate was registered or in a separate proceeding. R.S.O. 1980, c. 223, s. 38 (3-5).

Recovery of
damages

(6) The court may make an order discharging a certificate,

Order
discharging
certificate

(a) where the party at whose instance it was issued,

(i) claims a sum of money in place of or as an alternative to the interest in the land claimed,

(ii) does not have a reasonable claim to the interest in the land claimed, or

(iii) does not prosecute the proceeding with reasonable diligence;

(b) where the interests of the party at whose instance it was issued can be adequately protected by another form of security; or

(c) on any other ground that is considered just,

and the court may, in making the order, impose such terms as to the giving of security or otherwise as the court considers just. R.S.O. 1980, c. 223, s. 39 (1-3).

(7) Where a certificate is discharged, any person may deal with the land as fully as if the certificate had not been registered. R.S.O. 1980, c. 223, s. 39 (6).

Effect

(8) Subsections (1) to (7) apply with necessary modifications to a certificate or caution under section 38 of the *Judicature*

Application
of section

Act, being chapter 223 of the Revised Statutes of Ontario, 1980, registered after the 24th day of November, 1977 and before this Act comes into force.

Idem

(9) Subsections (1), (2), (3), (6) and (7) apply with necessary modifications to a certificate or caution under section 38 of the *Judicature Act* registered before the 25th day of November, 1977. R.S.O. 1980, c. 223, s. 38 (6).

R.S.O. 1980,
c. 223

Interim order
for recovery
of personal
property

117.—(1) In an action in which the recovery of possession of personal property is claimed and it is alleged that the property,

(a) was unlawfully taken from the possession of the plaintiff; or

(b) is unlawfully detained by the defendant,

the court, on motion, may make an interim order for recovery of possession of the property.

Damages

(2) A person who obtains possession of personal property by obtaining or setting aside an interim order under subsection (1) is liable for any loss suffered by the person ultimately found to be entitled to possession of the property. R.S.O. 1980, c. 449, s. 2.

"medical
practitioner"
defined

118.—(1) In this section, "medical practitioner" means a person licensed to practise medicine or dentistry in Ontario or any other jurisdiction.

Order for
physical or
mental
examination

(2) Where the physical or mental condition of a party to a proceeding is in question, the court, on motion, may order the party to undergo a physical or mental examination by one or more medical practitioners.

Idem

(3) Where the question of a party's physical or mental condition is first raised by another party, an order under this section shall not be made unless the allegation is relevant to a material issue in the proceeding and there is good reason to believe that there is substance to the allegation.

Further
examinations

(4) The court may, on motion, order further physical or mental examinations.

Examiner
may ask
questions

(5) Where an order is made under this section, the party examined shall answer the questions of the examining medical practitioner relevant to the examination and the answers given are admissible in evidence. R.S.O. 1980, c. 223, s. 77.

119. A court, on its own initiative or on motion by any person, whether or not a party, may stay any proceeding in the court on such terms as are considered just. R.S.O. 1980, c. 223, s. 18, par. 6. Stay of proceedings

120.—(1) Where two or more proceedings are pending in two or more different courts, and the proceedings, Consolidation of proceedings in different courts

- (a) have a question of law or fact in common;
- (b) claim relief arising out of the same transaction or occurrence or series of transactions or occurrences; or
- (c) for any other reason ought to be the subject of an order under this section,

an order may, on motion, be made,

- (d) transferring any of the proceedings to another court and requiring the proceedings to be consolidated, or to be heard at the same time, or one immediately after the other; or

- ➡
- (e) requiring any of the proceedings to be,

- (i) stayed until after the determination of any other of them, or

- (ii) asserted by way of counterclaim in any other of them.

(2) A proceeding in the Provincial Court (Civil Division) shall not be, Transfer from Provincial Court (Civil Division)

- (a) transferred under clause (1) (d) to the District Court or the Supreme Court; or
- (b) required under subclause (1) (e) (ii) to be asserted by way of counterclaim in a proceeding in the District Court or the Supreme Court,

without the consent of the plaintiff in the proceeding in the Provincial Court (Civil Division). ▲

(3) The motion shall be made,

Motions

- (a) where one or more of the proceedings are in the Supreme Court, to a judge of the Supreme Court;

- (b) where none of the proceedings are in the Supreme Court, to a judge of the District Court.

Directions

(4) An order under subsection (1) may impose such terms and give such directions as are considered just, including dispensing with service of a notice of readiness or listing for trial and abridging the time for placing an action on the trial list.

Transfer

(5) A proceeding that is transferred to another court under clause (1) (d) shall be titled in the court to which it is transferred and shall be continued as if it had been commenced in that court.

Discretion at hearing

(6) Where an order has been made that proceedings be heard either at the same time or one immediately after the other, the judge presiding at the hearing nevertheless has discretion to order otherwise. *New.*

PROCEDURAL MATTERS

Jury trials

121.—(1) In a Supreme Court or District Court action, a party may require that the issues of fact be tried or the damages assessed, or both, by a jury, unless otherwise provided. R.S.O. 1980, c. 223, s. 59 (1).

Trials without jury

(2) Actions in which a claim is made for any of the following kinds of relief shall be heard without a jury:

1. Injunction or mandatory order.
2. Partition or sale of real property.
3. Relief under Part I, II or III of the *Family Law Reform Act* or under the *Children's Law Reform Act*.
4. Dissolution of a partnership or taking of partnership or other accounts.
5. Foreclosure or redemption of a mortgage.
6. Sale and distribution of the proceeds of property subject to any lien or charge.
7. Execution of a trust.
8. Rectification, setting aside or cancellation of a deed or other written instrument.
9. Specific performance of a contract.

R.S.O. 1980,
cc. 152, 68

10. Declaratory relief.

11. Other equitable relief.

12. Relief against a municipality. R.S.O. 1980, c. 223, ss. 58, 60 (4).

(3) On motion, the court may order that issues of fact be tried or damages assessed, or both, without a jury. R.S.O. 1980, c. 223, s. 59 (2). Idem

(4) Where a proceeding is tried with a jury, the jury shall be composed of six persons selected in accordance with the *Juries Act*. *New*. Composition of jury
R.S.O. 1980, c. 226

(5) Where a proceeding is tried with a jury, Verdicts or questions

(a) the judge may require the jury to give a general verdict or to answer specific questions, subject to section 15 of the *Libel and Slander Act*; and R.S.O. 1980, c. 237

(b) judgment may be entered in accordance with the verdict or the answers to the questions. R.S.O. 1980, c. 223, ss. 64, 65 (1, 3).

(6) It is sufficient if five of the jurors agree on the verdict or the answer to a question, and where more than one question is submitted, it is not necessary that the same five jurors agree to every answer. R.S.O. 1980, c. 223, s. 62. Idem

(7) The judge presiding at a trial may discharge a juror on the ground of illness, hardship, partiality or other sufficient cause. Discharge of juror at trial

(8) Where a juror dies or is discharged, the judge may direct that the trial proceed with five jurors, in which case the verdict or answers to questions must be unanimous. R.S.O. 1980, c. 223, s. 63. Continuation with five jurors

(9) Where a proceeding to which subsection 167 (1) of the *Highway Traffic Act* applies is tried with a jury, the judge may direct the jury to specify negligent acts or omissions that caused the damages or injuries in respect of which the proceeding is brought. R.S.O. 1980, c. 223, s. 65 (2). Specifying negligent acts under
R.S.O. 1980, c. 198, s. 167 (1)

(10) In an action for malicious prosecution, the trier of fact shall determine whether or not there was reasonable and probable cause for instituting the prosecution. R.S.O. 1980, c. 223, s. 66. Malicious prosecution

Constitutional questions

122.—(1) Where the constitutional validity or constitutional applicability of an Act of the Parliament of Canada or the Legislature or of a regulation or by-law made thereunder is in question, the Act, regulation or by-law shall not be adjudged to be invalid or inapplicable unless notice has been served on the Attorney General of Canada and the Attorney General of Ontario in accordance with subsection (2).

Form and time of notice

(2) The notice shall be in the form provided for by the Rules of Civil Procedure and, unless the court orders otherwise, shall be served at least ten days before the day on which the question is to be argued.

Notice of appeal

(3) Where the Attorney General of Canada and the Attorney General of Ontario are entitled to notice under subsection (1), they are entitled to notice of any appeal in respect of the constitutional question.

Right of Attorneys General to be heard

(4) Where the Attorney General of Canada or the Attorney General of Ontario is entitled to notice under this section, he or she is entitled to adduce evidence and make submissions to the court in respect of the constitutional question.

Right of Attorneys General to appeal

(5) Where the Attorney General of Canada or the Attorney General of Ontario makes submissions under subsection (4), he or she shall be deemed to be a party to the proceedings for the purpose of any appeal in respect of the constitutional question. R.S.O. 1980, c. 223, s. 35.

Proceeding in wrong forum

123.—(1) Where a proceeding or a step in a proceeding is brought or taken before the wrong court, judge or officer, it may be transferred or adjourned to the proper court, judge or officer.

Continuation of proceeding

(2) A proceeding that is transferred to another court under subsection (1) shall be titled in the court to which it is transferred and shall be continued as if it had been commenced in that court. *New.*

Set off

124.—(1) In an action for payment of a debt, the defendant may, by way of defence, claim the right to set off against the plaintiff's claim a debt owed by the plaintiff to the defendant. R.S.O. 1980, c. 223, s. 134.

Idem

(2) Mutual debts may be set off against each other, notwithstanding that they are of a different nature or that one debt is owed to or by a person in a personal capacity and the other debt is owed by or to the person in a capacity other than personal. R.S.O. 1980, c. 223, s. 135 (1).

(3) Where, on a defence of set off, a larger sum is found to be due from the plaintiff to the defendant than is found to be due from the defendant to the plaintiff, the defendant is entitled to judgment for the balance. R.S.O. 1980, c. 223, s. 136.

Judgment for
defendant

125.—(1) Where a petition or counterpetition for divorce contains particulars of a child under the age of eighteen years who is a child of the marriage within the meaning of section 2 of the *Divorce Act* (Canada), the Official Guardian shall cause an investigation to be made and shall report to the court on all matters relating to the custody, maintenance and education of the child.

Report of
Official
Guardian in
divorce
action
R.S.C. 1970,
c. D-8

(2) The Official Guardian may engage another person to make the investigation.

Agents

(3) An affidavit of the person making the investigation, verifying the report as to facts that are within the person's knowledge and setting out the source of the person's information and belief as to other facts, with the report attached as an exhibit thereto, shall be served on the parties and filed and on being filed shall form part of the evidence at the hearing of the divorce proceeding.

Report as
evidence

(4) Where a party to the proceeding disputes the facts set out in the report, the Official Guardian shall if directed by the court, and may when not so directed, attend the hearing on behalf of the child and cause the person who made the investigation to attend as a witness.

Attendance
on report

(5) The petitioner shall pay such fees for and disbursements arising from an investigation in respect of the petition as are prescribed under the *Administration of Justice Act*.

Payment of
fees
R.S.O. 1980,
c. 6

(6) The Official Guardian shall not serve or file the report of the investigation until the fees and disbursements have been paid, unless the court orders otherwise. R.S.O. 1980, c. 258, s. 1 (2-7).

Idem

(7) The fees and disbursements of the Official Guardian payable under subsection (5) shall be deemed to be costs incurred in the proceeding for the purposes of any order for costs. R.S.O. 1980, c. 258, s. 1 (9).

Costs of
Official
Guardian

126. Rules of court permitting a defendant to make a third party claim apply notwithstanding any agreement that provides that no action may be brought until after judgment against the defendant. *New.*

Agreement
preventing
third party
claim

Agreement
as to place
of hearing

127. Where a party moves to change the place of hearing in a proceeding, an agreement as to the place of hearing is not binding, but may be taken into account. R.S.O. 1980, c. 223, s. 61.

Security

R.S.O. 1980,
c. 192

128. Where a person is required to give security in respect of a proceeding in a court, a bond of a guarantee company to which the *Guarantee Companies Securities Act* applies is sufficient, unless the court orders otherwise. R.S.O. 1980, c. 223, s. 76.

Periodic
payment and
review of
damages

R.S.O. 1980,
c. 152

129. In a proceeding where damages are claimed,

- (a) for personal injuries; or
- (b) under Part V of the *Family Law Reform Act*, for loss resulting from the injury to or death of a person,

the court may, with the consent of all affected parties,

- (c) order the defendant to pay all or part of the award for damages periodically on such terms as the court considers just;
- (d) order that the award for damages be subject to future review and revision in such circumstances and on such terms as the court considers just. *New.*

Assessment
of damages

130. Where damages are to be assessed in respect of,

- (a) a continuing cause of action;
- (b) repeated breaches of a recurring obligation; or
- (c) intermittent breaches of a continuing obligation,

the damages, including damages for breaches occurring after the commencement of the proceeding, shall be assessed down to the time of the assessment. *New.*

Foreign
money
obligations

131.—(1) Subject to subsections (3) and (4), where a person obtains an order to enforce an obligation in a foreign currency, the order shall require payment of an amount in Canadian currency sufficient to purchase the amount of the obligation in the foreign currency at a chartered bank in Ontario at the close of business on the first day on which the bank quotes a Canadian dollar rate for purchase of the foreign

currency before the day payment of the obligation is received by the creditor.

(2) Where more than one payment is made under an order referred to in subsection (1), the rate of conversion shall be the rate determined as provided in subsection (1) for each payment.


Multiple
payments

(3) Subject to subsection (4), where, in a proceeding to enforce an obligation in a foreign currency, the court is satisfied that conversion of the amount of the obligation to Canadian currency as provided in subsection (1) would be inequitable to any party, the order may require payment of an amount in Canadian currency sufficient to purchase the amount of the obligation in the foreign currency at a chartered bank in Ontario on such other day as the court considers equitable in the circumstances.

Discretion
of court

(4) Where an obligation enforceable in Ontario provides for a manner of conversion to Canadian currency of an amount in a foreign currency, the court shall give effect to the manner of conversion in the obligation.

Other
obligations
that include
conversion

(5) Where a writ of seizure and sale or notice of garnishment is issued under an order to enforce an obligation in a foreign currency, the day the sheriff, bailiff or clerk of the court receives money under the writ or notice shall be deemed, for the purposes of this section and any obligation referred to in subsection (4), to be the day payment is received by the creditor. *New.* 

Enforcement
by seizure or
garnishment

132.—(1) Where an action for an accounting could have been brought against a person, the action may be brought against his or her personal representative.

Actions for
accounting

(2) An action for an accounting may be brought by a joint tenant or tenant in common, or his or her personal representative, against a co-tenant for receiving more than the co-tenant's just share. R.S.O. 1980, c. 223, s. 139.

Idem

133.—(1) In this section,

Interpretation

(a) “chief judge” means the person having authority to assign duties to the judge;

(b) “judge” includes a local judge or master.

(2) A judge may, within ninety days of,

(a) reaching retirement age;

Decision
after
retirement,
etc.

- (b) resigning; or
- (c) being appointed to another court,

give a decision or participate in the giving of a decision in any matter previously tried or heard before the judge.

Inability to
give decision;
panel of
judges

(3) Where a judge has commenced a hearing together with other judges and,

- (a) dies before the decision is given;
- (b) is for any reason unable to participate in the giving of the decision; or
- (c) does not participate in the giving of the decision under subsection (2),

the remaining judges may complete the hearing and give the decision of the court but, if the remaining judges are equally divided, a party may make a motion to the chief judge for an order that the matter be reheard. R.S.O. 1980, c. 223, s. 11 (1-3).

Inability to
give decision;
sitting alone

(4) Where a judge has commenced hearing a matter sitting alone and,

- (a) dies without giving a decision;
- (b) is for any reason unable to make a decision; or
- (c) does not give a decision under subsection (2),

a party may make a motion to the chief judge for an order that the matter be reheard. R.S.O. 1980, c. 100, s. 30 (1).

Failure to
give decision

(5) Where a judge has heard a matter and fails to give a decision,

- (a) in the case of a judgment, within six months; or
- (b) in any other case, within three months,

the chief judge may extend the time in which the decision may be given and, if necessary, relieve the judge of his or her other duties until the decision is given.

Continued
failure

(6) Where time has been extended under subsection (5) but the judge fails to give the decision within that time, unless the chief judge grants a further extension,

- (a) the chief judge shall report the failure and the surrounding circumstances to the appropriate judicial council; and
- (b) a party may make a motion to the chief judge for an order that the matter be reheard. *New.*

(7) Where an order is made under subsection (3), (4) or (6) for the rehearing of a matter, the chief judge may, Rehearing

- (a) dispose of the costs of the original hearing or refer the question of those costs to the judge or judges presiding at the rehearing;
- (b) direct that the rehearing be conducted on the transcript of evidence taken at the original hearing, subject to the discretion of the court at the rehearing to recall a witness or require further evidence; and
- (c) give such other directions as are considered just. R.S.O. 1980, c. 100, s. 30 (2-6).

134. No document shall be served and no order shall be executed on Sunday, except with leave of the court. R.S.O. 1980, c. 223, s. 132. Service on Sunday

LANGUAGE

135.—(1) The official languages of the courts of Ontario are English and French. *New.* Official languages of the courts

(2) Except as otherwise provided with respect to the use of the French language, Proceedings in English unless otherwise provided

- (a) hearings in courts shall be conducted in the English language and evidence adduced in a language other than English shall be interpreted into the English language; and
- (b) documents filed in courts shall be in the English language or shall be accompanied by a translation of the document into the English language certified by affidavit of the translator. R.S.O. 1980, c. 223, s. 130 (1).

136.—(1) In this section, “designated court” means, “designated court” defined

- (a) a court sitting in,
 - (i) the county of Essex or Renfrew,

(ii) the judicial district of Niagara South, Ottawa-Carleton or York,

(iii) the territorial district of Algoma, Cochrane, Nipissing, Sudbury or Timiskaming,

(iv) the united counties of Prescott and Russell or the united counties of Stormont, Dundas and Glengarry;

(b) a court designated by order of the Lieutenant Governor in Council, sitting in a place that is not in a county or district mentioned in clause (a) and is designated in the order. R.S.O. 1980, c. 223, s. 130 (2, 3); 1983, c. 3, s. 1 (1).



Non-jury trial
before
bilingual
judge

(2) In a proceeding in a designated court without a jury, a party who speaks the French language has the right to require that the hearing be conducted before a judge who speaks both the English and French languages.

Jury trial
before
bilingual
judge and
jury

(3) In a proceeding in a designated court referred to in clause (1) (a) that is to be heard by a judge and jury, a party who speaks the French language has the right to require that the hearing be conducted before a judge and jurors who speak both the English and French languages.



Proceedings
in English
and French

(4) Where a right under subsection (2) or (3) is exercised,

(a) all evidence adduced and submissions made at the hearing in the proceeding in the English or French language shall be received, recorded and transcribed in the language in which it is given;

(b) with the consent of all the parties or by order of the court, clauses (a) and (b) apply to any other step in the proceeding;

(c) any oral evidence adduced at an examination before or after the hearing in the proceeding in the English or French language shall be received, recorded and transcribed in the language in which it is given;



(d) with the consent of all the parties or by order of the court, clauses (a) and (b) apply to any other step in the proceeding;



(e) with the consent of all the parties, pleadings and other documents filed in the proceeding may be in the French language only;

- (f) the reasons for the decision in the proceeding may be in either the English or French language; and
- (g) on the request of a party or counsel who speaks the English or French language, but not both, the court shall provide,
 - (i) interpretation of anything given orally in the other language under clause (a), (b), (c) or (d), and
 - (ii) translation of documents in the other language under clause (a), (d) or (f), unless the court considers that the ends of justice do not require the expense of translation,

into the language spoken by the party or counsel.
R.S.O. 1980, c. 223, s. 130 (6, 7).

(5) Where an appeal is taken in a proceeding to which subsection (4) applies, Appeals

- (a) a party who speaks the French language has the right to require the hearing of the appeal to be conducted before a judge or judges who speak both the English and French languages, in which case subsection (4) applies, with necessary modifications, to the hearing of the appeal; and
- (b) the court whose decision is appealed shall provide a translation into the English or French language, at the request of a party or counsel who speaks only one of these languages, of any part of the transcript of the hearing that is in the other language.

(6) A document filed by a party before the hearing in a proceeding in the Provincial Court (Family Division) or the Provincial Court (Civil Division) where the court is a designated court may be in the French language only. Court documents
R.S.O. 1980, c. 223, s. 130 (8); 1983, c. 3, s. 1 (2).

(7) A process issued in or giving rise to a criminal proceeding or a proceeding in the Provincial Offences Court where it is a designated court may be filed in the court in the French language only. Process

(8) A document or process referred to in subsection (6) or (7) that is filed in the English or French language only shall be translated by the court into the other language on the request of a party. Translation

Interpretation
in
undesignated
courts

(9) Where, at a hearing in a court that is not a designated court or at a hearing in a designated court to which subsection (4) does not apply, a party acting in person makes submissions to the court in the French language or a witness gives oral evidence in the French language, the court shall provide an interpreter to translate the submissions or evidence into the English language.

Corporations,
etc.

(10) A corporation, partnership or sole proprietorship may claim the rights under this section in the same manner as a person who speaks either the English or French language, unless the court orders otherwise.

Regulations

(11) The Lieutenant Governor in Council may make regulations prescribing procedures for the purpose of this section. *New.*

INTEREST AND COSTS

Interpretation

137.—(1) In this section and in sections 138 and 139,

- (a) “bank rate” means the bank rate established by the Bank of Canada as the minimum rate at which the Bank of Canada makes short-term advances to the chartered banks;
- (b) “date of the order” means the date the order is made, notwithstanding that the order is not entered or enforceable on that date, or that the order is varied on appeal, and in the case of an order directing a reference, the date the report on the reference is confirmed;
- (c) “postjudgment interest rate” means the bank rate at the end of the first day of the last month of the quarter preceding the quarter in which the date of the order falls, rounded to the next higher whole number where the bank rate includes a fraction, plus 1 per cent;
- (d) “prejudgment interest rate” means the bank rate at the end of the first day of the last month of the quarter preceding the quarter in which the proceeding was commenced, rounded to the next higher whole number where the bank rate includes a fraction, plus 1 per cent;
- (e) “quarter” means the three-month period ending with the 31st day of March, 30th day of June, 30th

day of September or 31st day of December.
R.S.O. 1980, c. 223, s. 36 (1, 2).

(2) After the first day of the last month of each quarter, the Registrar of the Supreme Court shall forthwith,

Calculation
and
publication of
interest

- (a) determine the prejudgment and postjudgment interest rate for the next quarter; and
- (b) publish in *The Ontario Gazette* a table showing the rate determined under clause (a) for the next quarter and for all the previous quarters during the preceding ten years. *New.*

138.—(1) A person who is entitled to an order for the payment of money is entitled to claim and have included in the order an award of interest thereon at the prejudgment interest rate, calculated,

Prejudgment
interest

- (a) where the order is made on a liquidated claim, from the date the cause of action arose to the date of the order; or
- (b) where the order is made on an unliquidated claim, from the date the person entitled gave notice in writing of his claim to the person liable therefor to the date of the order.

(2) Where the order includes an amount for special damages, the interest calculated under subsection (1) shall be calculated on the balance of special damages incurred as totalled at the end of each six-month period following the notice in writing referred to in clause (1) (b) and at the date of the order.

Special
damages

(3) Interest shall not be awarded under subsection (1),

Exclusion

- (a) on exemplary or punitive damages;
- (b) on interest accruing under this section;
- (c) on an award of costs in the proceeding;
- (d) on that part of the order that represents pecuniary loss arising after the date of the order and that is identified by a finding of the court;
- (e) where the order is made on consent, except by consent of the debtor; or

- (f) where interest is payable by a right other than under this section. R.S.O. 1980, c. 223, s. 36 (3-5).

Application

(4) Where a proceeding is commenced before this section comes into force, this section does not apply and section 36 of the *Judicature Act*, being chapter 223 of the Revised Statutes of Ontario, 1980, continues to apply, notwithstanding section 187.

Postjudgment interest

139.—(1) Money owing under an order, including costs to be assessed or costs fixed by the court, bears interest at the postjudgment interest rate, calculated from the date of the order. R.S.O. 1980, c. 223, s. 37 (1).

Interest on periodic payments

(2) Where an order provides for periodic payments, each payment in default shall bear interest only from the date of default.

Interest on orders originating outside Ontario

(3) Where an order is based on an order given outside Ontario or an order of a court outside Ontario is filed with a court in Ontario for the purpose of enforcement, money owing under the order bears interest at the rate, if any, applicable to the order given outside Ontario by the law of the place where it was given.

Costs assessed without order

(4) Where costs are assessed without an order, the costs bear interest at the postjudgment interest rate in the same manner as if an order were made for the payment of costs on the date the person to whom the costs are payable became entitled to the costs.

Other provision for interest

(5) Interest shall not be awarded under this section where interest is payable by a right other than under this section. *New.*

Application

(6) Where an order for the payment of money is made before this section comes into force, this section does not apply and section 37 of the *Judicature Act*, being chapter 223 of the Revised Statutes of Ontario, 1980, continues to apply, notwithstanding section 187.

Discretion of court

140. The court may, where it considers it just to do so, having regard to changes in market interest rates, the circumstances of the case, the conduct of the proceeding or any other relevant consideration,

- (a) disallow interest under section 138 or 139;
- (b) allow interest at a rate higher or lower than that provided in section 138 or 139;

- (c) allow interest for a period other than that provided in section 138 or 139,

in respect of the whole or any part of the amount on which interest is payable under section 138 or 139. R.S.O. 1980, c. 223, ss. 36 (6), 37 (2).

141.—(1) Subject to the provisions of an Act or rules of court, the costs of a proceeding or a step in a proceeding are in the discretion of the court, and the court may determine by whom and to what extent the costs shall be paid. R.S.O. 1980, c. 223, s. 80 (1). Costs

(2) In a proceeding to which Her Majesty is a party, costs awarded to Her Majesty shall not be disallowed or reduced on assessment merely because they relate to a barrister or solicitor who is a salaried officer of the Crown, and costs recovered on behalf of Her Majesty shall be paid into the Consolidated Revenue Fund. R.S.O. 1980, c. 223, s. 80 (5). Crown costs

APPEALS

142. A judge shall not sit as a member of a court hearing an appeal from his or her own decision. R.S.O. 1980, c. 223, ss. 42 (6), 46 (5). Judge not to hear appeal from own decision

143. No appeal lies without leave of the court to which the appeal is to be taken, Leave to appeal required

- (a) from an order made with the consent of the parties; or

- (b) where the appeal is only as to costs that are in the discretion of the court that made the order for costs on the ground that the discretion was wrongly exercised. R.S.O. 1980, c. 223, ss. 27, 80 (4).

144.—(1) Unless otherwise provided, a court to which an appeal is taken may, Powers on appeal

- (a) make any order or decision that ought to or could have been made by the court or tribunal appealed from;
- (b) order a new trial;
- (c) make any other order or decision that is considered just. R.S.O. 1980, c. 223, s. 29 (1).

Interim
orders

(2) On motion, a court to which an appeal is taken may make any interim order that is considered just to prevent prejudice to a party pending the appeal. *New.*

Power to
quash

(3) On motion, a court to which an appeal is taken may, in a proper case, quash the appeal. R.S.O. 1980, c. 223, s. 13 (1).

Determin-
ation of fact

(4) Unless otherwise provided, a court to which an appeal is taken may, in a proper case,

(a) draw inferences of fact from the evidence, except that no inference shall be drawn that is inconsistent with a finding that has not been set aside;

(b) receive further evidence by affidavit, transcript of oral examination, oral examination before the court or in such other manner as the court directs; and

(c) direct a reference or the trial of an issue,

to enable the court to determine the appeal.

Scope of
decisions

(5) The powers conferred by this section may be exercised notwithstanding that the appeal is as to part only of an order or decision, and may be exercised in favour of a party even though the party did not appeal. R.S.O. 1980, c. 223, s. 29 (2, 3).

New trial

(6) A court to which an appeal is taken shall not direct a new trial unless some substantial wrong or miscarriage of justice has occurred.

Idem

(7) Where some substantial wrong or miscarriage of justice has occurred but it affects only part of an order or decision or some of the parties, a new trial may be ordered in respect of only that part or those parties. R.S.O. 1980, c. 223, ss. 30, 31.

PUBLIC ACCESS

Public
hearings

145.—(1) Subject to subsection (2) and rules of court, all court hearings shall be open to the public. R.S.O. 1980, c. 223, s. 117.

Exception

(2) The court may order the public to be excluded from a hearing where the possibility of serious harm or injustice to any person justifies a departure from the general principle that court hearings should be open to the public.

(3) Where a proceeding is heard in the absence of the public, disclosure of information relating to the proceeding is not contempt of court unless the court expressly prohibited the disclosure of the information. *New.*

Disclosure of
information

146.—(1) Subject to subsections (2) and (3), no person shall,

Prohibition
against
photography,
etc., at court
hearing

(a) take or attempt to take a photograph, motion picture, audio recording or other record capable of producing visual or aural representations by electronic means or otherwise,

(i) at a court hearing,

(ii) of any person entering or leaving the room in which a court hearing is to be or has been convened, or

(iii) of any person in the building in which a court hearing is to be or has been convened where there is reasonable ground for believing that the person is there for the purpose of attending or leaving the hearing; or

(b) publish, broadcast, reproduce or otherwise disseminate a photograph, motion picture, audio recording or record taken in contravention of clause (a).

➡
(2) Nothing in subsection (1),

Exceptions

(a) prohibits a person from unobtrusively making handwritten notes or sketches at a court hearing; or

(b) prohibits a solicitor or party acting in person from unobtrusively making an audio recording at a court hearing that is used only for the purposes of the litigation as a substitute for notes. ▲

(3) Subsection (1) does not apply to a photograph, motion picture, audio recording or record made with authorization of the judge,

Exceptions

(a) where required for the presentation of evidence or the making of a record or for any other purpose of the court hearing;

(b) in connection with any investitive, naturalization, ceremonial or other similar proceeding; or

- (c) with the consent of the parties and witnesses, for such educational or instructional purposes as the judge approves.

Offence

(4) Every person who contravenes this section is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than six months, or to both. R.S.O. 1980, c. 223, s. 67.

Documents
public

147.—(1) On payment of the prescribed fee, a person is entitled to see any document filed in a civil proceeding in a court, unless an Act or an order of the court provides otherwise. R.S.O. 1980, c. 223, s. 129 (4).

Sealing
documents

(2) A court may order that any document filed in a civil proceeding before it be treated as confidential, sealed and not form part of the public record. *New.*

Court lists
public

(3) On payment of the prescribed fee, a person is entitled to see any list maintained by a court of civil proceedings commenced or judgments entered.

Copies

(4) On payment of the prescribed fee, a person is entitled to a copy of any document he or she is entitled to see. R.S.O. 1980, c. 223, s. 129 (1, 3).

MISCELLANEOUS

Multiplicity
of
proceedings

148. As far as possible, multiplicity of legal proceedings shall be avoided. R.S.O. 1980, c. 223, s. 18, par. 8.

Joint liability
not affected
by judgment
or release

149.—(1) Where two or more persons are jointly liable in respect of the same cause of action, a judgment against or release of one of them does not preclude judgment against any other in the same or a separate proceeding.

Two
proceedings
in respect of
same damage

(2) Where a person who has suffered damage brings two or more proceedings in respect of the damage, the person is not entitled to costs in any of the proceedings, except the first proceeding in which judgment is obtained, unless the court is of the opinion that there were reasonable grounds for bringing more than one proceeding. *New.*

Vexatious
proceedings

150.—(1) Where a judge of the Supreme Court is satisfied, on application, that a person has persistently and without reasonable grounds,

- (a) instituted vexatious proceedings in any court; or

- (b) conducted a proceeding in any court in a vexatious manner,

the judge may order that,

- (c) no further proceeding be instituted by the person in any court; or
- (d) a proceeding previously instituted by the person in any court not be continued,

except by leave of a judge of the Supreme Court.

(2) An application under subsection (1) shall be made only with the consent of the Attorney General, and the Attorney General is entitled to be heard on the application. R.S.O. 1980, c. 523, s. 1 (1, 2).

Attorney
General

(3) Where a person against whom an order under subsection (1) has been made seeks leave to institute or continue a proceeding, he or she shall do so by way of an application in the Supreme Court.

Application
for leave to
proceed

(4) Where an application for leave is made under subsection (3),

Leave to
proceed

- (a) leave shall be granted only if the court is satisfied that the proceeding sought to be instituted or continued is not an abuse of process and that there are reasonable grounds for the proceeding;
- (b) the person making the application for leave may seek the rescission of the order made under subsection (1) but may not seek any other relief on the application;
- (c) the court may rescind the order made under subsection (1);
- (d) the Attorney General is entitled to be heard on the application; and
- (e) no appeal lies from a refusal to grant relief to the applicant.

(5) Nothing in this section limits the authority of a court to stay or dismiss a proceeding as an abuse of process or on any other ground. *New.*

Abuse of
process

Protection
for acting
under court
order

151. A person is not liable for any act done in good faith in accordance with an order or process of a court in Ontario. R.S.O. 1980, c. 223, s. 142.

Enforcement
of bonds and
recognizances

152.—(1) A bond or recognizance arising out of a civil proceeding may be enforced in the same manner as an order for the payment of money by leave of a judge on motion by the Attorney General or any other person entitled to enforcement.

Enforcement
of fines for
contempt

(2) A fine for contempt of court may be enforced by the Attorney General in the same manner as an order for the payment of money or in any other manner permitted by law.

Enforcement
by sheriff

(3) The sheriff to whom a writ obtained under subsection (1) or (2) is directed shall proceed immediately to carry out the writ without a direction to enforce. R.S.O. 1980, c. 144.

Consul as
official
representative

153. Where a person who is ordinarily resident in a foreign country is entitled to money or property that is in the hands of a court or an executor or administrator, and if the foreign country has a consul in Canada who is authorized to act as the person's official representative, the money or property may be paid or delivered to the consul. R.S.O. 1980, c. 223, s. 113.

Seal of court

154.—(1) The courts shall have such seals as are approved by the Attorney General.

Idem

(2) Every document issued out of a court in a civil proceeding shall bear the seal of the court. R.S.O. 1980, c. 223, ss. 12, 94.

Jurisdiction
of Federal
Court

155. The Federal Court of Canada has jurisdiction,

- (a) in controversies between Canada and Ontario;
- (b) in controversies between Ontario and any other province in which an enactment similar to this section is in force,

R.S.C. 1970
(2nd Supp.),
c. 10

in accordance with section 19 of the *Federal Court Act* (Canada). R.S.O. 1980, c. 125, s. 1.

PART IX

TRANSITIONAL PROVISIONS

156.—(1) This Act applies to all proceedings, whether commenced before or after this Act comes into force, subject to subsections (2) and (3) and except as otherwise provided.

Application
to all
proceedings

(2) Where a notice of appeal is delivered before this Act comes into force, the appeal shall be heard and determined by the court that had jurisdiction over the appeal before this Act comes into force.

Exception

(3) Where a proceeding is commenced before this Act comes into force, on motion, the court in which the proceeding was commenced may order, subject to such terms as are considered just and subject to variation by further order, that the proceeding or a step in the proceeding be conducted under the Acts and rules of court that governed the matter immediately before this Act comes into force or may make any other order that is considered just.

Exception

157.—(1) A proceeding commenced in a county or district court, a county or district court judge's criminal court or a court of general sessions of the peace and pending when Part II comes into force is continued in the District Court.

Continuation
of county
court
proceedings

(2) A reference in an Act or regulation to a county or district court or to a judge or the Chief Judge or Associate Chief Judge thereof shall be deemed to be a reference to the District Court or a judge, the Chief Judge or Associate Chief Judge thereof, respectively.

References to
county and
district courts

158.—(1) A proceeding commenced in a provincial court (criminal division), a provincial court (family division), a provincial offences court or a small claims court and pending when Part IV comes into force is continued in the Provincial Court (Criminal Division), the Provincial Court (Family Division), the Provincial Offences Court or the Provincial Court (Civil Division), respectively.

Continuation
of
proceedings
in provincial
courts

(2) A reference in an Act or regulation to a provincial court (criminal division), a provincial court (family division), a provincial offences court or a small claims court shall be deemed to be a reference to the Provincial Court (Criminal Division), the Provincial Court (Family Division), the Provincial Offences Court or the Provincial Court (Civil Division), respectively.

References to
provincial
courts

Reference to
territorial
jurisdiction

159. Where by an Act or regulation, jurisdiction is conferred on a particular county or district court, provincial court, provincial offences court or small claims court, the jurisdiction shall be deemed to be conferred on the District Court, Provincial Court, Provincial Offences Court or Provincial Court (Civil Division) sitting in the county or district of the court named.

PART X

COMPLEMENTARY AMENDMENTS TO STATUTE LAW

Changes in
terminology

160. A reference in any Act, rule or regulation, or order or other court process to a term set out in column 1 of the Table, or any form thereof, shall be deemed to refer to the corresponding term set out opposite thereto in column 2.

TABLE

<i>Column 1</i>	<i>Column 2</i>
1. administrator <i>ad litem</i>	1. litigation administrator
2. certificate of <i>lis pendens</i>	2. certificate of pending litigation
3. conduct money	3. attendance money
4. guardian <i>ad litem</i>	4. litigation guardian
5. next friend	5. litigation guardian
6. originating motion	6. application
7. originating notice	7. notice of application
8. praecipe	8. requisition
9. Rules of Practice and Procedure of the Supreme Court of Ontario made by the Rules Committee	9. Rules of Civil Procedure
<u>10.</u> special examiner	<u>10.</u> official examiner
<u>11.</u> taxation of costs	<u>11.</u> assessment of costs
<u>12.</u> taxing officer	<u>12.</u> assessment officer
<u>13.</u> writ of <i>fiery facias</i>	<u>13.</u> writ of seizure and sale
<u>14.</u> writ of summons	<u>14.</u> statement of claim or notice of action

161. Subsection 31 (1) of the *Arbitrations Act*, being chapter 25 of the Revised Statutes of Ontario, 1980, is repealed.

162. The *Bailiffs Act*, being chapter 37 of the Revised Statutes of Ontario, 1980, is amended by striking out "clerk of the

peace” where it occurs in sections 6, 7 and 12 and inserting in lieu thereof in each instance “sheriff”.

163. Section 68 of the *Children's Law Reform Act*, being chapter 68 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1982, chapter 20, section 1, is repealed.

164. The *Constitutional Questions Act*, being chapter 86 of the Revised Statutes of Ontario, 1980, is repealed.

165.—(1) Clause 51 (2) (a) of the *Construction Lien Act*, 1983, being chapter 6, is amended by striking out “having jurisdiction” in the first line and inserting in lieu thereof “sitting”.

(2) Clauses 51 (2) (b) and (c) of the said Act are repealed and the following substituted therefor:

- (b) on consent of the persons to whom a notice of trial must be given and on the order of a local judge sitting in the county or district referred to in clause (a), by a local judge sitting in another county or district, but not in the Judicial District of York; or
- (c) where upon motion a local judge sitting in the county or district referred to in clause (a) so orders, by a judge of the court at the regular sittings of the court for the trial of actions in that county or district.

(3) Clause 52 (1) (b) of the said Act is repealed and the following substituted therefor:

- (b) a master assigned to the county or district in which the premises or part thereof are situate or a commissioner appointed under section 24 of the *Courts of Justice Act*, 1984, where the premises are situate outside the Judicial District of York.

1984, c. ...

(4) Clause 52 (1) (c) of the said Act is amended by striking out “the” in the second line and inserting in lieu thereof “a”.

(5) Subsection 52 (2) of the said Act is amended by striking out “appointed local master” in the first line and inserting in lieu thereof “commissioner”.

(6) Clause 52 (2) (b) of the said Act is amended by striking out “appointed local master” in the second line and inserting in lieu thereof “commissioner”.

(7) Clause 52 (2) (c) of the said Act is amended by striking out “originating”.

(8) Subsection 52 (3) of the said Act is amended by striking out “appointed local master” in the second line and inserting in lieu thereof “commissioner”.

(9) Section 53 of the said Act is amended by striking out “an appointed local master” in the second line and inserting in lieu thereof “commissioner”.

(10) Section 54 of the said Act is amended by striking out “an appointed local master” in the first and second lines and inserting in lieu thereof “commissioner”.

(11) Subsection 55 (1) of the said Act is amended by striking out “filing” in the first line and inserting in lieu thereof “issuing” and by striking out “registrar or” in the second line.

(12) Subsection 55 (2) of the said Act is amended by striking out “filed” in the second line and inserting in lieu thereof “issued”.

(13) Subsection 56 (2) of the said Act is repealed and the following substituted therefor:

Noting in
default

(2) Where a person against whom a claim is made in a statement of claim, counterclaim, crossclaim or third party claim defaults in the delivery of a defence to that claim, the person against whom the claim is made may be noted in default.

(14) Subsection 56 (3) of the said Act is amended by striking out “pleadings have been noted closed against a defendant or third party” in the first and second lines and inserting in lieu thereof “a defendant or third party has been noted in default”.

(15) Subsection 56 (4) of the said Act is amended by striking out “against whom pleadings have been noted closed” in the second and third lines and inserting in lieu thereof “who has been noted in default” and by striking out “proceeding in respect of” in the seventh line and inserting in lieu thereof “step in”.

(16) Subsection 56 (5) of the said Act is repealed.

(17) Section 58 of the said Act is amended by striking out “proceedings” where it occurs in the first line and in the third

line of paragraph 3 and inserting in lieu thereof “claims” in each instance.

(18) Clause 60 (1) (b) of the said Act is repealed and the following substituted therefor:

- (b) a local judge may refer to a master assigned to the county or district in which the trial is to take place or a commissioner appointed under section 24 of the *Courts of Justice Act, 1984*.

1984, c. ...

(19) Subsection 60 (1) of the said Act is amended by striking out “under section 71 of the *Judicature Act*” in the ninth line.

(20) Clause 60 (2) (b) of the said Act is repealed and the following substituted therefor:

- (b) a local judge may direct a reference to a master assigned to the county or district in which the trial is to take place or to a commissioner.

(21) Subsection 60 (2) of the said Act is amended by striking out “under section 70 or 71 of the *Judicature Act*” in the sixth line.

(22) Subsection 60 (3) of the said Act is amended by striking out “local master” in the second line and inserting in lieu thereof “commissioner”.

(23) Subsection 63 (6) of the said Act is repealed and the following substituted therefor:

(6) Rule 50 of the Rules of Civil Procedure does not apply to an action under this Act.

Non-appli-
cation of
Rule 50

(24) Clause 64 (1) (b) of the said Act is amended by striking out “an appointed local master of the court” in the second and third lines and inserting in lieu thereof “commissioner”.

(25) Subsection 64 (2) of the said Act is amended by striking out “proceedings” in the third line and inserting in lieu thereof “action”.

(26) Subsection 64 (3) of the said Act is amended by striking out “an appointed local master” in the first line and inserting in lieu thereof “commissioner” and by striking out “appeal” in the fourth line and inserting in lieu thereof “a motion to oppose confirmation of the report”.

(27) Subsection 69 (2) of the said Act is amended by striking out “proceedings” where it occurs in the first line and in the third line and inserting in lieu thereof “steps” in each instance.

(28) Subsection 69 (6) of the said Act is amended by striking out “interlocutory” in the fourth line.

(29) Subsections 73 (1) and (2) of the said Act are repealed and the following substituted therefor:

Appeal to
Divisional
Court

(1) Subject to subsection (3), an appeal lies to the Divisional Court from a judgment or an order on a motion to oppose confirmation of a report under this Act.

Notice of
appeal

(2) A party wishing to appeal shall file and serve his notice of appeal within fifteen days of the date of the judgment or order, but the time for filing or serving the notice of appeal may be extended by the written consent of all parties, or by a single judge of the Divisional Court where an appropriate case is made out for doing so.

(30) Clause 73 (3) (a) of the said Act is amended by inserting after “or” in the first line “an order on a motion to oppose confirmation of”.

(31) Subsection 88 (1) of the said Act is amended by striking out “an appointed local master” in the eighteenth and nineteenth lines and inserting in lieu thereof “commissioner”.

(32) Subsection 88 (3) of the said Act is repealed.

(33) Subsection 89 (3) of the said Act is repealed.

166. Subsection 3 (6) of the *Coroners Act*, being chapter 93 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Crown
attorney
notified of
appointment

(6) A copy of the order appointing a coroner shall be sent by the Minister to the Crown attorney of any county or district in which the coroner will ordinarily act.

167. The *County Court Judges' Criminal Courts Act*, being chapter 99 of the Revised Statutes of Ontario, 1980, is repealed.

168. The *County Courts Act*, being chapter 100 of the Revised Statutes of Ontario, 1980 and the *County Courts Amendment Act, 1981*, being chapter 24, are repealed.

169. The *County Judges Act*, being chapter 101 of the Revised Statutes of Ontario, 1980, is repealed.

170.—(1) Section 6 of the *Crown Attorneys Act*, being chapter 107 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subclauses 12 (b) (ii) and (iii) of the said Act are repealed and the following substituted therefor:

(ii) at sittings of the District Court, and

.

(3) Clause 12 (i) of the said Act is repealed.

(4) Section 14 of the said Act is amended by striking out “and clerk of the peace” in the second and third lines.

(5) Section 15 of the said Act is amended by striking out “and clerk of the peace” in the first line.

171. Section 19 of the *Developmental Services Act*, being chapter 118 of the Revised Statutes of Ontario, 1980, is repealed.

172. Subsection 2 (3) of the *Disorderly Houses Act*, being chapter 120 of the Revised Statutes of Ontario, 1980, is amended by striking out “clerk of the peace” in the second line and inserting in lieu thereof “local registrar of the District Court”.

173. The *Dominion Courts Act*, being chapter 125 of the Revised Statutes of Ontario, 1980, is repealed.

174. Section 26 of the *Estates Administration Act*, being chapter 143 of the Revised Statutes of Ontario, 1980, is repealed.

175. The *Estreats Act*, being chapter 144 of the Revised Statutes of Ontario, 1980, is repealed.

176.—(1) Section 48 of the *Evidence Act*, being chapter 145 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

(2) An examination or deposition received or read in evidence under subsection (1) shall be presumed to represent accurately the evidence of the party or witness, unless there is good reason to doubt its accuracy.

Presumption

(2) Subsection 60 (1) of the said Act is amended by inserting after "process" in the fifth line "for a purpose for which a letter of request could be issued under the Rules of Civil Procedure".

177.—(1) The *Execution Act*, being chapter 146 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following sections:

Execution of
writ of
seizure and
sale

19a.—(1) A sheriff acting under a writ of seizure and sale, a writ of delivery or a writ of sequestration may use reasonable force to enter land and premises other than a dwelling where he believes, on reasonable and probable grounds, that there is property liable to be taken in execution under the writ and may use reasonable force to execute the writ.

Idem,
dwelling

(2) A sheriff acting under a writ of seizure and sale, a writ of delivery or a writ of sequestration in respect of property on premises that is used as a dwelling shall not use force to enter the dwelling or execute the writ except under the authority of an order of the court by which the writ was issued, and the court may make the order where in the opinion of the court there is reasonable and probable grounds to believe that there is property on the premises that is liable to be taken in execution under the writ.

Execution of
writ of
possession

19b.—(1) A sheriff acting under a writ of possession may use reasonable force to enter and take possession of the land and premises referred to in the writ.

Idem

(2) In executing a writ of possession it is not necessary to remove personal property from the land and premises.

(2) Section 25 of the said Act is repealed.

(3) The said Act is further amended by adding thereto the following section:

Execution
against
partner

29a. Under an execution against a partner in his personal capacity, partnership assets shall not be taken in execution, but an order may be made appointing a receiver of the partner's share of profits whether already declared or accruing and of any other money that may be coming to him in respect of the partnership.

178. The *Extra-Judicial Services Act*, being chapter 149 of the Revised Statutes of Ontario, 1980, is repealed.

179.—(1) Subsection 2 (6) of the *Family Law Reform Act*, being chapter 152 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Clause 25 (1) (b) of the said Act is repealed and the following substituted therefor:

- (b) it appears to the court that the respondent resides in another county or district; and

(3) Subsection 25 (6) of the said Act is repealed and the following substituted therefor:

(6) Where the respondent appears before the court and the court, having regard to all the evidence, is of the opinion that the order ought not to be confirmed, the court shall remit the case to the court sitting in the county or district where the order was made together with a statement of the reasons for so doing, and in that event the court sitting in the county or district where the order was made may dispose of the application in such manner as it considers proper.

Where order
not
confirmed

(4) Section 30 of the said Act is repealed.

180. Section 3 of the *Fines and Forfeitures Act*, being chapter 162 of the Revised Statutes of Ontario, 1980, is amended by striking out “court of general sessions of the peace” in the fifth and sixth lines and inserting in lieu thereof “District Court”.

181. The *General Sessions Act*, being chapter 187 of the Revised Statutes of Ontario, 1980, is repealed.

182. Subsection 1 (1) of the *Habeas Corpus Act*, being chapter 193 of the Revised Statutes of Ontario, 1980, is amended by striking out “court of general sessions of the peace” in the third and fourth lines and inserting in lieu thereof “District Court”.

183. Subsection 180 (3) of the *Highway Traffic Act*, being chapter 198 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(3) Notwithstanding subsections (1) and (2), when an action is within the time limited by this Act for the recovery of damages occasioned by a motor vehicle and a counterclaim, cross-claim or third or subsequent party claim is commenced by a defendant in respect of damages occasioned in the same acci-

Action for
damages

dent, the lapse of time herein limited is not a bar to the counterclaim, crossclaim or third or subsequent party claim.

184.—(1) The *Interpretation Act*, being chapter 219 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

DEATH OF SOVEREIGN

Death of
Sovereign

19a. Where a reigning Sovereign dies, no rule or construction of law shall be applied so as to prevent the continuation of any matter under the successor to the Crown as if the death had not occurred.

(2) Sections 28 and 29 of the said Act are repealed.

(3) Paragraph 31 of section 30 of the said Act is amended by striking out “*Judicature Act*” in the second line and inserting in lieu thereof “*Courts of Justice Act, 1984*”.

(4) Section 31 of the said Act is amended by striking out “*Judicature Act*” in the first line and inserting in lieu thereof “*Courts of Justice Act, 1984*”.

185. Clause 1 (c) of the *Interprovincial Subpoenas Act*, being chapter 220 of the Revised Statutes of Ontario, 1980, is amended by striking out “or hearing” in the fourth line and inserting in lieu thereof “hearing or examination”.

186. The *Judges’ Orders Enforcement Act*, being chapter 222 of the Revised Statutes of Ontario, 1980, is repealed.

187.—(1) The *Judicature Act*, being chapter 223 of the Revised Statutes of Ontario, 1980, the *Judicature Amendment Act, 1981*, being chapter 23, the *Judicature Amendment Act, 1983*, being chapter 3, section 1 of the *Provincial Judges and Masters Statute Law Amendment Act, 1983*, being chapter 78, subsection 106 (1) of *The Judicature Act*, being chapter 100 of the Revised Statutes of Ontario, 1937 and subsection 3 (1) of *The Judicature Amendment Act, 1941*, being chapter 24, are repealed .

Suitors
Fee Fund
Account
abolished

(2) The Suitors Fee Fund Account is abolished and all money in the account shall be paid into the Consolidated Revenue Fund.

188. Section 11 of the *Judicial Review Procedure Act*, being chapter 224 of the Revised Statutes of Ontario, 1980, is repealed.

189.—(1) Subclause 5 (1) (a) (ii) of the *Juries Act*, being chapter 226 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 8 (2) of the said Act is amended by striking out “is designated in a county or district under section 130 of the *Judicature Act*” in the first and second lines and inserting in lieu thereof “is a designated court under clause 136 (1) (a) of the *Courts of Justice Act, 1984*”.

(3) Subsection 11 (1) of the said Act is amended by striking out “the jury roll for the nearest preceding year” in the fourth and fifth lines and inserting in lieu thereof “the jury rolls for the three nearest preceding years”.

(4) Subsection 12 (1) of the said Act is amended by striking out “or of the court of general sessions of the peace” in the fourth and fifth lines.

(5) Section 12 of the said Act is amended by adding thereto the following subsection:

(1a) Where the sittings of the Supreme Court and the District Court are to be held at the same time in the same county or district, a precept under subsection (1) may be issued jointly by a judge of the Supreme Court and a judge of the District Court.

Joint issuance
for Supreme
and District
Courts

(6) Subsection 14 (2) of the said Act is amended by striking out “or court of general sessions of the peace” in the third line.

(7) Sections 15 and 20 of the said Act are repealed.

(8) Subsection 21 (1) of the said Act is amended by striking out “registered” in the second line and inserting in lieu thereof “ordinary”.

(9) Subsection 23 (4) of the said Act is amended by striking out “of the Supreme Court for the trial of criminal matters and proceedings, or in the case of a sittings of the court of general sessions of the peace” in the first, second and third lines and inserting in lieu thereof “for the hearing of criminal proceedings”.

(10) Subsection 24 (2) of the said Act is amended by striking out “or the court of general sessions of the peace, or both” in the third and fourth lines.

(11) Subsection 26 (1) of the said Act is amended by striking out “or court of general sessions of the peace” in the fourth and fifth lines.

(12) Section 28 of the said Act is amended by striking out “courts of general sessions of the peace and of” in the sixth line.

(13) Section 35 of the said Act is amended by striking out “court of general sessions of the peace, and of the” in the second line.

(14) Clause 39 (1) (a) of the said Act is amended by striking out “the court of general sessions of the peace or of” in the second line.

(15) Subsection 42 (2) of the said Act is amended by striking out “or clerk of the peace” in the first line.

(16) Clause 43 (d) of the said Act is amended by striking out “clerk of the peace” in the first line.

(17) Section 46 of the said Act is amended by striking out “and the court of general sessions of the peace” in the second and third lines.

190. Subsection 135 (1) of the *Land Titles Act*, being chapter 230 of the Revised Statutes of Ontario, 1980, is repealed.

191.—(1) Section 11 of the *Libel and Slander Act*, being chapter 237 of the Revised Statutes of Ontario, 1980, is repealed.

(2) The said Act is amended by adding thereto the following section:

Plaintiff's
character or
circumstances
of publication

22a. In an action for libel or slander, where the statement of defence does not assert the truth of the statement complained of, the defendant may not give evidence in chief at trial, in mitigation of damages, concerning the plaintiff's character or the circumstances of publication of the statement, except,

(a) where the defendant provides particulars to the plaintiff of the matters on which he intends to give evidence, in the statement of defence or in a notice served at least seven days before trial; or

(b) with leave of the court.



192. Clause 1 (a) of the *Marine Insurance Act*, being chapter 255 of the Revised Statutes of Ontario, 1980, is repealed.

193. The *Matrimonial Causes Act*, being chapter 258 of the Revised Statutes of Ontario, 1980, is repealed.

194. Section 45 of the *Mental Health Act*, being chapter 262 of the Revised Statutes of Ontario, 1980, is repealed.

195.—(1) Section 6 of the *Mental Incompetency Act*, being chapter 264 of the Revised Statutes of Ontario, 1980, is amended by striking out “the confirmation of” in the fourth and fifth lines and by striking out “confirmation” in the fifth and sixth lines and inserting in lieu thereof “propounding”.

(2) Subsection 12 (1) of the said Act is amended by striking out the words following clause (c) in the eleventh, twelfth, thirteenth and fourteenth lines.

(3) Subsection 12 (2) of the said Act is repealed.

(4) Subsection 12 (3) of the said Act is amended by striking out “and any such appointment need not be confirmed” in the fourth line.

(5) Section 38 of the said Act is repealed.

196.—(1) Subsection 41 (2) of the *Mortgages Act*, being chapter 296 of the Revised Statutes of Ontario, 1980, is amended by striking out “the clerk of the county or district court, or by the local master of” in the fifth and sixth lines and inserting in lieu thereof “an assessment officer”.

(2) Subsection 41 (4) of the said Act is amended by striking out “one of the taxing officers of the Supreme Court at Toronto or by a local master having jurisdiction in the county or district in which the mortgaged property or any part of it is situate” in the third, fourth, fifth and sixth lines and inserting in lieu thereof “an assessment officer”.

197. Section 13 of the *Municipal Arbitrations Act*, being chapter 304 of the Revised Statutes of Ontario, 1980, is repealed.

198. Section 1 of the *Negligence Act*, being chapter 315 of the Revised Statutes of Ontario, 1980, is repealed.

199. Subsections 95 (1), (2) and (3) of the *Ontario Municipal Board Act*, being chapter 347 of the Revised Statutes of

Ontario, 1980, are repealed and the following substituted therefor:

Appeal

(1) Subject to the provisions of Part IV, an appeal lies from the Board to the Divisional Court, with leave of the Divisional Court, on a question of law.

200.—(1) Subsection 3 (1) of the *Partition Act*, being chapter 369 of the Revised Statutes of Ontario, 1980, is amended by striking out “appointed by a surrogate court” in the second line and by striking out “take proceedings” in the third line and inserting in lieu thereof “bring an action or make an application”.

(2) Subsection 4 (1) of the said Act is amended by striking out “application” in the fourth line and inserting in lieu thereof “motion”.

(3) Subsection 4 (3) of the said Act is amended by striking out “application” in the third line and inserting in lieu thereof “motion”.

(4) Subsection 5 (1) of the said Act is amended by striking out “an action or proceeding” in the first line and in the second line and inserting in lieu thereof in each instance “a proceeding”.

(5) Subsection 7 (1) of the said Act is amended by striking out “proceedings under this Act are” in the first line and inserting in lieu thereof “an application under this Act is”.

201. Section 44 of the *Police Act*, being chapter 381 of the Revised Statutes of Ontario, 1980, is repealed.

202. Subsections 3 (1), (2) and (7), subsection 6 (1), section 7, subsection 12 (2) and sections 50 and 53 of the *Private Sanitaria Act*, being chapter 391 of the Revised Statutes of Ontario, 1980, are amended by striking out “clerk of the peace” in each instance where it occurs and inserting in lieu thereof “Crown attorney”.

203.—(1) Section 3 of the *Proceedings Against the Crown Act*, being chapter 393 of the Revised Statutes of Ontario, 1980, is amended by striking out “Except as provided in section 29” in the first line.

(2) Section 14 of the said Act is repealed and the following substituted therefor:

14. In proceedings under this Act, a document to be served personally on the Crown shall be served by leaving a copy of the document with a solicitor in the Crown Law Office (Civil Law) of the Ministry of the Attorney General.

Service on
the Crown

(3) Section 26 of the said Act is repealed and the following substituted therefor:

26. The Treasurer of Ontario shall pay out of the Consolidated Revenue Fund the amount payable by the Crown under an order of a court that is final and not subject to appeal or under a settlement of a proceeding in a court.

Payment by
Crown

204.—(1) The title to the *Provincial Courts Act*, being chapter 398 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

JUVENILE OBSERVATION AND DETENTION HOMES ACT

(2) Section 31 of the said Act is amended by striking out “a provincial court (family division)” in the first and second lines and inserting in lieu thereof “the Provincial Court (Family Division) or the Unified Family Court”.

(3) Sections 1 to 26, sections 32 and 33 and clauses 34 (1) (a), (b), (c), (d), (e), (f), (l) and (m) of the said Act are repealed.

(4) The following are repealed:

Repeals

1. The *Provincial Courts Amendment Act, 1982*, being chapter 22.
2. The *Provincial Courts Amendment Act, 1983*, being chapter 85.
3. Section 2 of the *Provincial Offences Statute Law Amendment Act, 1983*, being chapter 80.
4. Section 2 of the *Provincial Judges and Masters Statute Law Amendment Act, 1983*, being chapter 78.

205. The *Provincial Court (Civil Division) Act*, being chapter 397 of the Revised Statutes of Ontario, 1980 and the *Provincial Court (Civil Division) Project Amendment Act, 1982*, being chapter 58, are repealed.

206.—(1) Subsection 76 (1) of the *Provincial Offences Act*, being chapter 400 of the Revised Statutes of Ontario, 1980, is

amended by inserting after “prescribed” in the second line “by or under any Act”.

(2) Section 114 of the said Act is amended by adding thereto the following subsection:

Appeal as to
leave

(3) No appeal or review lies from a decision on a motion for leave to appeal under subsection (1).

(3) Section 122 of the said Act is amended by adding thereto the following subsection:

Appeal as to
leave

(4) No appeal or review lies from a decision on a motion for leave to appeal under subsection (1).

207. The *Public Officers' Fees Act*, being chapter 416 of the Revised Statutes of Ontario, 1980, is repealed.

208. The *Quieting Titles Act*, being chapter 427 of the Revised Statutes of Ontario, 1980, is repealed.

209. Section 7 of the *Reciprocal Enforcement of Judgments Act*, being chapter 432 of the Revised Statutes of Ontario, 1980, is repealed.

210. The *Replevin Act*, being chapter 449 of the Revised Statutes of Ontario, 1980, is repealed.

211. Clause 1 (1) (a) of the *Sale of Goods Act*, being chapter 462 of the Revised Statutes of Ontario, 1980, is repealed.

212.—(1) Sections 1 and 2 of the *Sheriffs Act*, being chapter 470 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

Sheriffs

1.—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint a sheriff for each county and district and additional sheriffs for such counties and districts as are indicated in the appointment.

Deputy
sheriffs

(2) With the approval of the Attorney General, every sheriff may appoint in writing a deputy sheriff who may exercise and perform all the powers and duties of the sheriff.

Enforcement
of court
orders

2. Except where a statute provides otherwise, orders of a court enforceable in Ontario shall be directed to the sheriff for enforcement.

(2) Subsection 11 (3) of the said Act is repealed.

(3) Section 12 of the said Act is repealed and the following substituted therefor:

12. Every sheriff's office shall be open for business on the days and during the hours that court offices are required to be open under the Rules of Civil Procedure. Office hours

(4) Section 17 of the said Act is amended by striking out "the court of general sessions of the peace" in the third line.

(5) Section 21 of the said Act is repealed.

213. The *Small Claims Courts Act*, being chapter 476 of the Revised Statutes of Ontario, 1980 and the *Small Claims Courts Amendment Act*, 1983, being chapter 22, are repealed.

214.—(1) Subsection 6 (5) of the *Solicitors Act*, being chapter 478 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(5) The amount certified to be due shall be paid by the party liable to pay the amount, forthwith after confirmation of the certificate in the same manner as confirmation of a referee's report under the Rules of Civil Procedure. When
payment due

(2) Section 6 of the said Act is amended by adding thereto the following subsection:

(10) A motion to oppose confirmation of the certificate shall be made to a judge of the High Court. Motion to
oppose
confirmation

(3) The said Act is amended by adding thereto the following section:

6a.—(1) Upon assessment between a solicitor and his client, the assessment officer may allow the costs of steps taken in proceedings that were in fact unnecessary where he is of the opinion that the steps were taken by the solicitor because, in his judgment, reasonably exercised, they were conducive to the interests of his client, and may allow the costs of steps that were not calculated to advance the interests of the client where the steps were taken by the desire of the client after being informed by his solicitor that they were unnecessary and not calculated to advance his interests. Costs of
unnecessary
steps in
proceedings

(2) Subsection (1) does not apply to solicitor and client costs payable out of a fund not wholly belonging to the client, or by a third party. Application

(4) Section 14 of the said Act is repealed.

(5) Subsection 35 (3) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 21, is amended by striking out “section 36 of the *Judicature Act*” in the second and third lines and inserting in lieu thereof “for the purpose of section 138 of the *Courts of Justice Act, 1984*”.

(6) The said Act is further amended by adding thereto the following section:

SOLICITORS' CHARGING ORDERS

Charge on
property for
costs

35a.—(1) Where a solicitor has been employed to prosecute or defend a proceeding in the Supreme Court or the District Court, the court may, on motion, declare the solicitor to be entitled to a charge on the property recovered or preserved through the instrumentality of the solicitor for the solicitor's fees, costs, charges and disbursements in the proceeding.

Conveyance
to defeat is
void

(2) A conveyance made to defeat or which may operate to defeat a charge under subsection (1) is, unless made to a person who purchased the property for value in good faith and without notice of the charge, void as against the charge.

Assessment
and recovery

(3) The court may order that the solicitor's bill for services be assessed in accordance with this Act and that payment shall be made out of the charged property.

(7) Subsection (5) does not apply to bills delivered or overpayments made before this Act comes into force.

215.—(1) Section 3 of the *Surrogate Courts Act*, being chapter 491 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Section 6 of the said Act is amended by striking out “\$100” in the fourth line and inserting in lieu thereof “\$10,000”.

(3) Section 7 of the said Act is amended by striking out “and, except as herein otherwise provided and subject to the surrogate court rules in contentious matters, the practice and procedure of” in the first, second, third and fourth lines.

(4) Section 10 of the said Act is repealed.

(5) Subsections 12 (1) and (2) of the said Act are repealed and the following substituted therefor:

(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint a registrar of the surrogate court for each county and district and additional registrars for such counties and districts as are indicated in the appointment. Registrars

(2) With the approval of the Attorney General, every surrogate court registrar may appoint in writing a deputy surrogate court registrar who may exercise and perform all the powers and duties of the surrogate court registrar. Deputy registrars

(6) Sections 13, 16 and 19 of the said Act are repealed.

(7) Section 80 of the said Act is repealed and the following substituted therefor:

80.—(1) Subject to the approval of the Lieutenant Governor in Council, the Rules Committee of the Supreme and District Courts may make rules for the surrogate courts in relation to the practice and procedure of the courts and may make rules for such courts, even though they alter or conform to the substantive law, in relation to, Rules

- (a) conduct of proceedings in the courts;
- (b) joinder of claims and parties;
- (c) commencement of proceedings and service of process in or outside Ontario;
- (d) duties of registrars and other officers;
- (e) costs of proceedings, including security for costs;
- (f) any matter that is referred to in an Act as provided for by rules of court.

➡ (2) Nothing in subsection (1) authorizes the making of rules that conflict with an Act, but rules may be made under subsection (1) supplementing the provisions of an Act in respect of practice and procedure. Idem

(3) The Rules of Civil Procedure apply to surrogate courts, except in so far as the rules of the surrogate courts otherwise provide. Application of Rules of Civil Procedure

216.—(1) Subsection 37 (7) of the *Trustee Act*, being chapter 512 of the Revised Statutes of Ontario, 1980, is amended by striking out “Registrar of the Supreme Court” in the second

line and inserting in lieu thereof "Surrogate Clerk for Ontario".

(2) Subsection 37 (8) of the said Act is amended by striking out "Registrar of the Supreme Court" in the second line and inserting in lieu thereof "Surrogate Clerk for Ontario".

(3) Subsections 38 (3), (4), (5) and (6) of the said Act are repealed.

217. The *Unified Family Court Act*, being chapter 515 of the Revised Statutes of Ontario, 1980, section 5 of the *Children's Law Reform Amendment Act, 1982*, being chapter 20, the *Unified Family Court Amendment Act, 1982*, being chapter 21, section 3 of the *Provincial Offences Statute Law Amendment Act, 1983*, being chapter 80, the *Unified Family Court Amendment Act, 1982*, being chapter 21 and the *Unified Family Court Amendment Act, 1983*, being chapter 86, are repealed.

218. The *Vexatious Proceedings Act*, being chapter 523 of the Revised Statutes of Ontario, 1980, is repealed.

219. Clause 1 (a) of the *Warehouse Receipts Act*, being chapter 528 of the Revised Statutes of Ontario, 1980, is repealed.

220. Section 39 of the *Woodmen's Lien for Wages Act*, being chapter 537 of the Revised Statutes of Ontario, 1980, is repealed.

Commence-
ment

221. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

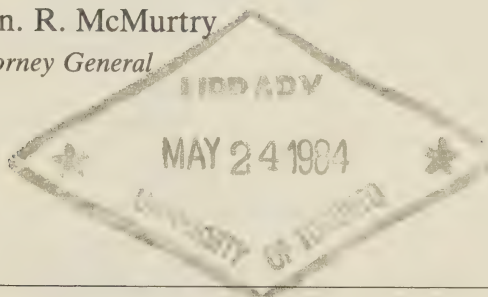
222. The short title of this Act is the *Courts of Justice Act, 1984*.

Bill 100

(Chapter 11
Statutes of Ontario, 1984)

An Act to revise and consolidate the Law respecting the Organization, Operation and Proceedings of Courts of Justice in Ontario

The Hon. R. McMurtry
Attorney General



<i>1st Reading</i>	March 20th, 1984
<i>2nd Reading</i>	March 20th, 1984
<i>3rd Reading</i>	April 24th, 1984
<i>Royal Assent</i>	May 1st, 1984

Bill 100

1984

**An Act to revise and consolidate the Law
respecting the Organization, Operation and
Proceedings of Courts of Justice in Ontario**

CONTENTS

Section

1. Interpretation

PART I

SUPREME COURT OF ONTARIO

Organization

2. Supreme Court
3. Court of Appeal
4. High Court
5. Divisional Court
6. Additional judges
7. Rank and Precedence
8. Jurisdiction of Judges
9. Assignment of judges to another court
10. Council of judges
11. Delegation of powers
12. Local judges

Jurisdiction

13. High Court jurisdiction
14. Composition of court for hearings
15. Divisional Court jurisdiction
16. Composition of court for hearings
17. Court of Appeal jurisdiction
18. Composition of court for hearings
19. References to Court of Appeal

Officers

20. Masters
21. Registrars
22. Accountant
23. Finance Committee
24. Other Officers

Section

PART II

DISTRICT COURT OF ONTARIO

Organization

25. District Court
26. Judges
27. Chief judge
28. Senior judges
29. Additional judges
30. Rank and precedence
31. Annual meeting

Jurisdiction

32. Jurisdiction
33. Dispute of monetary jurisdiction
34. Transfer from Supreme Court to District Court
35. Powers of Court
36. Appeals

Officers

37. Local registrars

PART III

UNIFIED FAMILY COURT

38. Unified Family Court
39. Jurisdiction of judges
40. Proceedings in Unified Family Court
41. Consent to jurisdiction
42. Orders of predecessor court
43. Powers
44. Place where proceedings commenced
45. Status of orders
46. Appeals
47. Criminal jurisdiction
48. Clerk
49. Conciliation service
50. Regulations

Section

- 51. Rules
 - Schedule of jurisdiction
- PART IV
- PROVINCIAL COURTS
- Judges
- 52. Appointment of judges
- 53. Other employment
- 54. Retirement
- 55. Resignation
- 56. Removal for cause
- 57. Judicial Council
- 58. Functions
- 59. Investigation of complaints
- 60. Inquiry
- 61. Jurisdiction of judges
- 62. Where procedure not provided
- 63. Chief judges
- 64. Senior judges
- 65. Election to revert to office of judge
 - Provincial Court
 - (Criminal Division)
- 66. Provincial Court
- (Criminal Division)
- 67. Exercise of criminal jurisdiction
 - Provincial Offences Court
- 68. Provincial Offences Court
- 69. Jurisdiction
- 70. Joint sittings
- 71. Contempt
- 72. Penalty for disturbance outside courtroom
- 73. Rules
 - Provincial Court
 - (Family Division)
- 74. Provincial Court
- (Family Division)
- 75. Jurisdiction
- 76. Rules
 - Provincial Court
 - (Civil Division)
- 77. Provincial Court
- (Civil Division)
- 78. Jurisdiction
- 79. Representation
- 80. Evidence
- 81. Instalment orders
- 82. Enforcement of orders
- 83. Appeals
- 84. Transfer from Supreme or District Court
- 85. Rules

Section

- Officers
- 86. Clerks
- Regulations
- 87. Regulations
- 88. Ontario Provincial Courts Committee
- PART V
- RULES OF CIVIL PROCEDURE
- 89. Rules Committee
- 90. Rules of Civil Procedure
- PART VI
- COURTS ADMINISTRATION
- 91. Attorney General's administrative responsibility
- 92. Ontario Courts Advisory Council
- 93. Trial lists and courtrooms
- 94. Appointment of court staff
- 95. Direction of court staff
- PART VII
- JUDGES AND OFFICERS
- 96. Oath of Office
- 97. *Persona designata* abolished
- 98. Liability of judges
- 99. Compensation of judges for statutory duties
- 100. Extra judicial services
- 101. Inspector of Legal Offices
- 102. Official Guardian
- 103. Assessment Officers
- 104. Official examiners
- 105. Administration of oaths
- 106. Money held by officer of court
- 107. Disposition of court fees
- PART VIII
- COURT PROCEEDINGS
- 108. Application of Part
 - Common Law and Equity
- 109. Rules of law and equity
- 110. Declaratory orders
- 111. Relief against penalties
- 112. Damages in lieu of injunction or specific performance
- 113. Vesting orders
- Interlocutory Orders
- 114. Injunctions and receivers
- 115. Labour injunctions
- 116. Certificate of pending litigation
- 117. Interim order for recovery of personal property

Section
118. Physical and mental examinations
119. Stay of proceedings
120. Consolidation of proceedings in different courts
Procedural matters
121. Jury trials
122. Constitutional questions
123. Proceedings in wrong forum
124. Set off
125. Report of Official Guardian in divorce action
126. Agreement preventing third party claim
127. Agreement as to place of hearing
128. Security
129. Periodic payment and review of damages
130. Assessment of damages
131. Foreign money obligations
132. Actions for accounting
133. Giving decisions
134. Service on Sunday
Language
135. Official languages of the courts
136. Proceedings in French language
Interest and Costs
137. Interpretation
138. Prejudgment interest
139. Postjudgment interest
140. Discretion of court
141. Costs
Appeals
142. Judge not to hear appeal from own decision
143. Leave to appeal required

Section
144. Powers on appeal
Public Access
145. Public hearings
146. Prohibition against photography, etc., at court hearing
147. Documents public
Miscellaneous
148. Multiplicity of proceedings
149. Joint liability not affected by judgment or release
150. Vexatious proceedings
151. Protection for acting under court order
152. Enforcement of bonds and recognizances
153. Payment to foreign payee
154. Seal of court
155. Jurisdiction of Federal court

PART IX
TRANSITIONAL PROVISIONS

156. Application to all proceedings
157. Continuation of county court proceedings
158. Continuation of provincial court proceedings
159. References to territorial jurisdiction of courts

PART X
COMPLEMENTARY
AMENDMENTS TO STATUTE
LAW

160. Changes in terminology
161-220. Complementary amendments and repeals
221. Proclamation
222. Short title

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpretation

- (a) “action” means a civil proceeding that is not an application and includes a proceeding commenced in the Supreme Court or the District Court by,
- (i) statement of claim,
 - (ii) notice of action,

- (iii) counterclaim,
 - (iv) crossclaim,
 - (v) third or subsequent party claim, or
 - (vi) divorce petition or counterpetition,
- and a proceeding commenced in the Provincial Court (Civil Division) by claim;
- (b) “application” means a civil proceeding in the Supreme Court or the District Court that is commenced by notice of application or a civil proceeding in the Unified Family Court, a surrogate court or the Provincial Court (Family Division) that is commenced by application;
 - (c) “defendant” means a person against whom an action is commenced;
 - (d) “hearing” includes a trial;
 - (e) “motion” means a motion in a proceeding or an intended proceeding;
 - (f) “order” includes a judgment or decree;
 - (g) “plaintiff” means a person who commences an action;
 - (h) “Rules of Civil Procedure” means the rules for the Supreme Court and the District Court made under Part V.

PART I

SUPREME COURT OF ONTARIO

ORGANIZATION

Supreme
Court

2.—(1) The Supreme Court of Ontario is continued as a superior court of record having civil and criminal jurisdiction, with all the jurisdiction, power and authority historically exercised by courts of common law and equity in England and Ontario.

Branches

(2) The Supreme Court shall continue to consist of two branches, the Court of Appeal for Ontario and the High Court of Justice for Ontario. R.S.O. 1980, c. 223, ss. 2, 3.

3.—(1) The Court of Appeal shall consist of the Chief Justice of Ontario, who shall be president of the court, the Associate Chief Justice of Ontario and fourteen other judges to be called justices of appeal.

Court of
Appeal

(2) Where the Chief Justice of Ontario is absent from Ontario or is for any reason unable to act, the powers and duties of the Chief Justice as president of the Court of Appeal shall be exercised and performed by the Associate Chief Justice of Ontario or, where both are absent or unable to act, by the senior justice of appeal who is present and able to act. R.S.O. 1980, c. 223, s. 4.

Absence of
Chief Justice

4.—(1) The High Court shall consist of the Chief Justice of the High Court, who shall be president of the court, the Associate Chief Justice of the High Court and such number of other judges as is fixed under subsection (2). R.S.O. 1980, c. 223, s. 5 (1); 1981, c. 23, s. 2 (1).

High Court

(2) The Lieutenant Governor in Council may by regulation fix the number of judges of the High Court who are in addition to the Chief Justice and Associate Chief Justice, but where the number is reduced by regulation, the reduction shall not be applied to affect appointments existing at the time of the reduction. 1981, c. 23, s. 2 (2).

Number of
judges

(3) Where the Chief Justice of the High Court is absent from Ontario or is for any reason unable to act, all the powers and duties of the Chief Justice of the High Court shall be exercised and performed by the Associate Chief Justice of the High Court or, where both are absent or unable to act, by the senior judge of the High Court who is present and able to act. R.S.O. 1980, c. 223, s. 5 (2).

Absence of
Chief Justice

5.—(1) There shall be a division of the High Court to be known as the Divisional Court of the High Court of Justice for Ontario consisting of the Chief Justice of the High Court who shall be president of the court and such other judges of the High Court as the Chief Justice may designate from time to time.

Divisional
Court

(2) Every judge of the High Court is also a judge of the Divisional Court. R.S.O. 1980, c. 223, s. 7.

Jurisdiction
of judges

6.—(1) For each of the offices of Chief Justice of Ontario and Associate Chief Justice of Ontario there shall be such additional offices of judges of the Court of Appeal as are from time to time required, to be held by Chief Justices of Ontario

Additional
judges

R.S.C. 1970,
c. J-1 and Associate Chief Justices of Ontario who have elected under the *Judges Act* (Canada) to perform only the duties of a judge of the Court of Appeal.

Idem (2) For each of the offices of Chief Justice of the High Court and Associate Chief Justice of the High Court there shall be such additional offices of judge of the High Court as are from time to time required, to be held by Chief Justices of the High Court and Associate Chief Justices of the High Court who have elected under the *Judges Act* (Canada) to perform only the duties of a judge of the High Court. *New.*

Super-
numerary
judges (3) For each office of judge of the Court of Appeal and of the High Court of Justice there shall be the additional office of supernumerary judge held by a judge of such court who has elected under the *Judges Act* (Canada) to hold office only as a supernumerary judge of that court. R.S.O. 1980, c. 223, s. 6.

Rank and
precedence **7.**—(1) The judges of the Supreme Court have rank and precedence as follows:

1. The Chief Justice of Ontario.
2. The Chief Justice of the High Court.
3. The Associate Chief Justice of Ontario.
4. The Associate Chief Justice of the High Court.
5. The other judges of the Supreme Court, according to seniority of appointment. R.S.O. 1980, c. 223, s. 8.

Court of
Appeal (2) Among themselves, the judges of the Court of Appeal have rank and precedence, after the Chief Justice of Ontario and the Associate Chief Justice of Ontario, according to seniority of appointment to the Court of Appeal. *New.*

Jurisdiction
of judges **8.** A judge appointed to the Court of Appeal or the High Court is a judge of the Supreme Court and, by virtue of his or her office, a judge of the branch of which he or she is not a member and, except as otherwise provided, all judges of the Supreme Court have equal jurisdiction, power and authority. R.S.O. 1980, c. 223, s. 9.

Assignment
of judges to
another court **9.**—(1) The Chief Justice of Ontario may assign a judge of the Court of Appeal to perform, in Toronto, the work of a judge of the High Court.

(2) The Chief Justice of Ontario, with the concurrence of the Chief Justice of the High Court, may assign a judge of the High Court to sit as a member of the Court of Appeal. R.S.O. 1980, c. 223, s. 42 (1, 2). Idem

10.—(1) A council of the judges of the Supreme Court shall be held in Toronto at least once in each year, on a day fixed by the Chief Justice of Ontario, for the purpose of considering this Act, the Rules of Civil Procedure and the administration of justice generally. Council of judges

(2) The judges shall report their recommendations to the Attorney General. R.S.O. 1980, c. 223, s. 118 (1, 2). Recommendations

11. Where a power or authority is conferred on the judges of the Supreme Court or the High Court as a body, they may delegate the power or authority to a committee of themselves. R.S.O. 1980, c. 223, s. 119 (1). Delegation of powers

12.—(1) Every District Court judge may be appointed as a local judge of the High Court. Local judges

(2) Every local judge has the jurisdiction conferred by the Rules of Civil Procedure. Jurisdiction

(3) Subject to the Rules of Civil Procedure, every local judge has all the jurisdiction of a judge of the High Court to hear and determine actions under the *Divorce Act* (Canada) and, where a claim for other relief is joined in a petition for divorce, a local judge has the same jurisdiction to hear and determine the claim as a judge of the High Court. Idem
R.S.C. 1970,
c. D-8

(4) A local judge may act in any county or district. R.S.O. 1980, c. 223, s. 121. Idem

JURISDICTION

13.—(1) Unless otherwise provided, proceedings in the Supreme Court shall be in the High Court. High Court jurisdiction

(2) Subject to the *Divorce Act* (Canada), an appeal lies to the High Court from, Appeals to High Court

(a) an interlocutory order of a master;

(b) an interlocutory order of a local judge of the High Court, where the order could have been made by a master;

- (c) a certificate of assessment of costs issued in a proceeding in the Supreme Court, where the appeal is on an issue in respect of which an objection was served under the Rules of Civil Procedure. *New.*

Composition
of court for
hearings

14.—(1) Unless otherwise provided by an Act or the Rules of Civil Procedure, every proceeding in the High Court shall be heard and determined by one judge of the High Court.

Sittings

(2) The sittings of the High Court and the assignment of judges thereto shall be determined by the judges of the High Court, with power in the Chief Justice of the High Court to make such readjustment or reassignment as is necessary from time to time. R.S.O. 1980, c. 223, s. 45 (1-3).

Idem

(3) At least two sittings of the High Court shall be held in each year in every county and district but, when there are not enough proceedings ready to be heard at the sitting to justify a separate sitting, the sitting may be held in an adjacent county or district. R.S.O. 1980, c. 223, s. 48 (6).

Divisional
Court
jurisdiction
R.S.C. 1970,
c. D-8

15.—(1) Subject to the *Divorce Act* (Canada), an appeal lies to the Divisional Court from,

- (a) a final order of a judge or local judge of the High Court,
 - (i) for a single payment of not more than \$25,000, exclusive of costs,
 - (ii) for periodic payments that amount to not more than \$25,000, exclusive of costs, in the twelve months commencing on the date the first payment is due under the order,
 - (iii) dismissing a claim for an amount that is not more than the amount set out in subclause (i) or (ii), or
 - (iv) dismissing a claim for an amount that is more than the amount set out in subclause (i) or (ii) and in respect of which the judge indicates that if the claim had been allowed the amount awarded would have been not more than the amount set out in subclause (i) or (ii);
- (b) an interlocutory order of a judge of the High Court, with leave as provided in the Rules of Civil Pro-

cedure, other than an order made on an appeal from the District Court;

- (c) an interlocutory order of a local judge of the High Court, with leave as provided in the Rules of Civil Procedure, other than an order that could have been made by a master;
- (d) a final order of a master;
- (e) a final order of a local judge of the High Court, where the order could have been made by a master. R.S.O. 1980, c. 223, s. 17.

(2) Where an appeal in a proceeding lies to the High Court and an appeal in the same proceeding lies to and is taken to the Divisional Court, the Divisional Court has jurisdiction to hear and determine the appeal that lies to the High Court at the same time as the appeal to the Divisional Court and may, on motion, transfer an appeal that has already been commenced in the High Court to the Divisional Court. *New.*

Combining of
appeals lying
to High
Court

16.—(1) Unless otherwise provided, every proceeding in the Divisional Court shall be heard and determined by three judges sitting together.

Composition
of court for
hearings

(2) A proceeding in the Divisional Court may be heard and determined by one judge where the proceeding,

Idem

- (a) is an appeal under clause 15 (1) (d) or (e);
- (b) is an appeal under section 83 (from the Provincial Court (Civil Division)); or
- (c) is in a matter that the Chief Justice of the High Court or a judge designated by the Chief Justice is satisfied, from the nature of the issues involved and the necessity for expedition, can and ought to be heard and determined by one judge. R.S.O. 1980, c. 223, s. 46.

(3) A motion in the Divisional Court, unless otherwise provided by the Rules of Civil Procedure, shall be heard and determined by one judge, but,

Idem

- (a) the judge may adjourn the motion to a panel of the Divisional Court;
- (b) where the motion is heard by one judge, a panel of the Divisional Court may, on motion, set aside or

vary the decision of the judge. R.S.O. 1980, c. 223, s. 40.

Sittings

(4) Sittings of the Divisional Court shall be held at such times and in such places as the Chief Justice of the High Court directs. R.S.O. 1980, c. 223, s. 46 (4).

Court of
Appeal
jurisdiction

17.—(1) An appeal lies to the Court of Appeal from,

- (a) an order of the Divisional Court, on a question that is not a question of fact alone, with leave as provided in the Rules of Civil Procedure;
- (b) a final order of a judge of the High Court, except an order referred to in clause 15 (1) (a);
- (c) a final order of a local judge of the High Court, except an order referred to in clause 15 (1) (a) or where the order could have been made by a master. R.S.O. 1980, c. 223, s. 28 (1).

Combining of
appeals lying
to other
courts

(2) Where an appeal in a proceeding lies to the Divisional Court or High Court, and an appeal in the same proceeding lies to and is taken to the Court of Appeal, the Court of Appeal has jurisdiction to hear and determine the appeal that lies to the Divisional Court or High Court at the same time as the appeal to the Court of Appeal and may, on motion, transfer an appeal that has already been commenced in the High Court or Divisional Court to the Court of Appeal. *New.*

Composition
of court for
hearings

18.—(1) Unless otherwise provided, every proceeding in the Court of Appeal shall be heard and determined by not fewer than three judges sitting together, and always by an uneven number of judges.

Idem
R.S.C. 1970,
c. D-8

(2) An appeal to the Court of Appeal from an interim order under section 10 of the *Divorce Act* (Canada) may be heard and determined by one judge, unless it is to be heard with an appeal that, but for subsection 17 (2), would have been heard by three judges of the Divisional Court. R.S.O. 1980, c. 223, s. 41.

Idem

(3) A motion in the Court of Appeal, except a motion for leave to appeal, a motion to quash an appeal or such other motion as is specified by the Rules of Civil Procedure, shall be heard and determined by one judge, but,

- (a) the judge may adjourn the motion to a panel of the Court of Appeal;

- (b) where the motion is heard by one judge, a panel of the Court of Appeal may, on motion, set aside or vary the decision of the judge. R.S.O. 1980, c. 223, s. 33.

(4) The senior judge on a panel of the Court of Appeal shall preside but, where the senior judge is a supernumerary judge, the Chief Justice of Ontario, on the request of the senior judge, may designate another judge to preside. R.S.O. 1980, c. 223, s. 44.

Presiding
judge

(5) The Chief Justice of Ontario has general supervision and direction over the sittings of the Court of Appeal and the assignment of the judicial duties of the court. R.S.O. 1980, c. 223, s. 41 (4).

Sittings

19.—(1) The Lieutenant Governor in Council may refer any question to the Court of Appeal for hearing and consideration.

References to
Court of
Appeal

(2) The court shall certify its opinion to the Lieutenant Governor in Council, accompanied by a statement of the reasons therefor, and any judge who differs from the opinion may in like manner certify his or her opinion and reasons.

Opinion of
court

(3) On the hearing of the question, the Attorney General of Ontario is entitled to make submissions to the court.

Submissions
by Attorney
General

(4) Where a question relates to the constitutional validity or constitutional applicability of an Act of the Parliament of Canada or the Legislature, or of a regulation or by-law made thereunder, the Attorney General of Canada shall be notified and is entitled to make submissions to the court.

Idem

(5) The court may direct that any person interested, or any one or more persons as representatives of a class of persons interested, be notified of the hearing and be entitled to make submissions to the court.

Notice

(6) Where an interest affected is not represented by counsel, the court may request counsel to argue on behalf of the interest, and the reasonable expenses thereof shall be paid by the Treasurer of Ontario.

Appointment
of counsel

(7) The opinion of the court shall be deemed to be a judgment of the court and an appeal lies therefrom as from a judgment in an action. R.S.O. 1980, c.86.

Appeal

OFFICERS

- Masters **20.**—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint such masters of the Supreme Court as are considered necessary. R.S.O. 1980, c. 223, s. 96 (1).
- Qualifications (2) No person shall be appointed as a master unless he or she has been a member of the bar of one of the provinces of Canada for at least ten years.
- Jurisdiction (3) Every master has the jurisdiction conferred by the Rules of Civil Procedure. *New.*
- Regulations (4) The Lieutenant Governor in Council may make regulations,
- (a) fixing the remuneration of masters;
 - (b) providing for the benefits to which masters are entitled, including,
 - (i) leave of absence and vacations,
 - (ii) sick leave credits and payments in respect of such credits,
 - (iii) pension benefits for masters and their surviving spouses and children,
- and for the transfer or other disposition of benefits in respect thereof to which persons appointed as masters were entitled under the *Public Service Act* or the *Public Service Superannuation Act* at the time of their appointment. R.S.O. 1980, c. 223, s. 100 (1).
- R.S.O. 1980,
cc. 418, 419
- Contributions (5) Regulations made under clause (4) (b) may require masters to contribute from their salaries part of the cost of benefits and may fix the amount of the contributions.
- Application
of R.S.O.
1980, c. 419
- (6) A regulation made under clause (4) (b) may modify or exclude the application of the *Public Service Superannuation Act*.
- Application
of s. (4) (b)
- (7) A regulation made under clause (4) (b) may be general or particular in its application. 1983, c. 78, s. 1.

(8) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint a master as Senior Master.

(9) The Senior Master has general supervision and direction over the sittings of the masters and the assignment of their judicial duties.

(10) The Attorney General may designate a master to act in the place of the Senior Master for all purposes during his or her absence or inability to act. R.S.O. 1980, c. 223, s. 99.

(11) Sections 53 to 60 and section 65 apply with necessary modifications to masters and the Senior Master in the same manner as to provincial judges and a chief judge, respectively. R.S.O. 1980, c. 223, ss. 96 (2-4), 97, 98, 100 (2, 3).

21.—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint a Registrar of the Supreme Court of Ontario.

(2) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint a local registrar of the Supreme Court for each county and district and additional local registrars for such counties and districts as are indicated in the appointment. *New.*

(3) With the approval of the Attorney General, every local registrar may appoint in writing a deputy local registrar who may exercise and perform all the powers and duties of the local registrar. R.S.O. 1980, c. 223, s. 85.

22.—(1) The Accountant of the Supreme Court is continued as a corporation sole by the name of "Accountant of the Supreme Court of Ontario".

(2) The Lieutenant Governor in Council may appoint the Accountant of the Supreme Court.

(3) Money paid into the Supreme Court shall be paid to the Accountant and such money and securities in which the money is invested are vested in the Accountant. R.S.O. 1980, c. 223, s. 110 (1, 2).

(4) Mortgages and other securities taken under an order of the Supreme Court and instruments taken as security in respect of a proceeding in the Supreme Court shall be taken in the name of the Accountant and shall be deposited in his or her office, except where an order provides otherwise.

- Idem (5) Subject to an order of the court, the Accountant has no duty or obligation in respect of the instruments deposited under subsection (4) except as custodian of the instruments. *New.*
- Audit by Provincial Auditor (6) The Provincial Auditor shall examine and report on the accounts and financial transactions of the Accountant. R.S.O. 1980, c. 223, s. 115.
- Finance committee **23.**—(1) The finance committee is continued and shall be composed of three persons appointed by the Lieutenant Governor in Council.
- Management of court funds (2) The finance committee has control and management of the money in the Supreme Court, the investment of the money and the securities in which it is invested.
- Investment of court funds (3) Money that is available for investment shall be invested in investments in which the Treasurer of Ontario may invest public money under section 3 of the *Financial Administration Act*. R.S.O. 1980, c. 161
- Employment of trust company (4) The finance committee may employ a trust company to make the investments or act as custodian of the securities purchased as investments.
- Interest (5) The finance committee may provide for the payment of interest on money paid into the Supreme Court and may fix the rate of interest so paid.
- Reserve funds (6) The finance committee may establish such reserve funds as it considers necessary. R.S.O. 1980, c. 223, s. 111.
- Other Officers **24.** In addition to the officers specifically provided for in this Act, the Lieutenant Governor in Council on the recommendation of the Attorney General, may appoint such officers of the Supreme Court as are considered necessary. R.S.O. 1980, c. 223, s. 83 (1).

PART II

DISTRICT COURT OF ONTARIO

ORGANIZATION

- District Court **25.**—(1) The county and district courts, the courts of general sessions of the peace and the county and district court judges' criminal courts are amalgamated and continued as a single court of record having civil and criminal jurisdiction,

named the District Court of Ontario. R.S.O. 1980, c. 100, s. 2.

(2) The District Court shall be presided over by a judge of the court. R.S.O. 1980, c.100, s. 3. Judge to preside

26.—(1) The District Court shall consist of the Chief Judge of the District Court, who shall be president of the court, the Associate Chief Judge of the District Court, a senior judge for each county or district designated under clause (2) (b) and such number of other judges as is fixed under clause (2) (a). Judges

(2) The Lieutenant Governor in Council may make regulations, Regulations

(a) fixing the number of judges of the court who are in addition to the Chief Judge, Associate Chief Judge and senior judges, but where the number is reduced by regulation, the reduction shall not be applied to affect appointments existing at the time of the reduction;

(b) designating counties and districts to which more than one judge shall be assigned; and

(c) establishing regions for the purposes of this Part. R.S.O. 1980, c. 101, ss. 1-4, 15, 16 (1).

(3) A judge of a county or district court may preside as a judge of the District Court. County or district judges presiding in District Court

(4) Nothing in this Part affects the rights or privileges of a judge who was appointed as a judge of a county or district court before this Part comes into force. *New.* Rights and privileges of judges preserved

27.—(1) The Chief Judge of the District Court has general supervision and direction over the sittings of the court and the assignment of the judicial duties of the court. R.S.O. 1980, c. 101, s. 16 (4). Chief Judge

(2) At least one judge of the District Court shall be assigned by the Chief Judge to each county and district. *New.* Assignment of judges

(3) For the purposes of arranging the sittings of the District Court and considering matters relating to the court and the judges, the Chief Judge shall convene a meeting of the judges Annual meeting in regions

of each region at least once in every year. R.S.O. 1980, c. 101, s. 16 (5).

Absence of
Chief Judge

(4) Where the Chief Judge is absent from Ontario or is for any reason unable to act, all the powers and duties of the Chief Judge shall be exercised and performed by the Associate Chief Judge or, where both are absent or unable to act, by a judge designated by the Chief Judge. R.S.O. 1980, c. 101, s. 16 (3).

Senior judges

28.—(1) The senior judge of a county or district shall, subject to the authority of the Chief Judge, direct and supervise the sittings of the court in the county or district and the assignment of the judicial duties of the court in the county or district. R.S.O. 1980, c. 101, s. 7.

Idem

(2) A judge who, on the coming into force of this Part, was a senior judge of a county or district court under subsection 2 (2) of the *County Judges Act*, being chapter 101 of the Revised Statutes of Ontario, 1980, may, subject to the authority of the Chief Judge, direct and supervise the sittings of the District Court in the county or district and the assignment of the judicial duties of the District Court in the county or district. *New.*

Additional
judges

29.—(1) For each of the offices of Chief Judge of the District Court and Associate Chief Judge of the District Court, there shall be such additional offices of judge of the District Court as are from time to time required, to be held by Chief Judges and Associate Chief Judges who have elected under the *Judges Act* (Canada) to perform only the duties of a judge of the District Court. *New.*

R.S.C. 1970,
c. J-1

Super-
numerary
judges

(2) For each office of judge of the District Court, there shall be the additional office of supernumerary judge held by a judge of the court who has elected under the *Judges Act* (Canada) to hold office only as a supernumerary judge of the court. R.S.O. 1980, c. 101, s. 5 (1).

Rank and
precedence

30. The judges of the District Court have rank and precedence as follows:

1. The Chief Judge of the District Court.
2. The Associate Chief Judge of the District Court.
3. The other judges of the District Court, according to seniority of appointment. R.S.O. 1980, c. 101, s. 6.

31.—(1) A meeting of the judges of the District Court shall be held in Toronto at least once in every year, on a day fixed by the Chief Judge of the District Court, for the purpose of considering this Act, the Rules of Civil Procedure and the administration of justice generally. R.S.O. 1980, c. 101, s. 16 (8). Annual meeting

(2) The judges shall report their recommendations to the Attorney General. *New.* Recommendations

JURISDICTION

32.—(1) The District Court has jurisdiction to hear and determine any action except, Jurisdiction

- (a) where the sum claimed or the value of the property that is the subject of the action exceeds \$25,000, exclusive of interest and costs; or
- (b) where another court is required by an Act to hear and determine the action.

(2) The District Court does not have jurisdiction to grant prerogative remedies. R.S.O. 1980, c. 100, s. 14 (1). Idem

33.—(1) A defendant who disputes the jurisdiction of the District Court on the ground that the monetary limit mentioned in clause 32 (1) (a) has been exceeded shall do so in the statement of defence. Dispute of monetary jurisdiction

(2) Where a defendant disputes the monetary jurisdiction of the District Court in accordance with subsection (1), the plaintiff may, within fifteen days after the filing of the statement of defence, Transfer or abandonment of excess by plaintiff

- (a) on requisition to the local registrar of the District Court, require the action to be transferred to the Supreme Court; or
- (b) abandon the amount of the claim in excess of the monetary limit by serving and filing a notice abandoning the excess, in which case the plaintiff is not entitled to recover the excess in any other proceeding.

(3) Where the plaintiff does not take one of the steps permitted by subsection (2), the defendant may, within thirty days after the filing of the statement of defence, Transfer by defendant

- (a) where the action includes a claim for money in excess of the monetary limit mentioned in clause 32 (1) (a), on requisition to the local registrar of the District Court, require the action to be transferred to the Supreme Court; or
- (b) in any other case, make a motion to a judge of the High Court for an order transferring the action to the Supreme Court on the ground that the action is beyond the monetary jurisdiction of the District Court.

Jurisdiction
conclusive

(4) Where,

- (a) the monetary jurisdiction of the court is not disputed under subsection (1);
- (b) the plaintiff and the defendant fail to take the steps permitted by subsections (2) and (3); or
- (c) a motion under clause (3) (b) is dismissed,

the District Court has the monetary jurisdiction to hear and determine the action. R.S.O. 1980, c. 100, s. 14 (2-5).

Continuation
in Supreme
Court

(5) An action that is transferred to the Supreme Court under this section shall be titled in the Supreme Court and shall be continued as if it had been commenced in the Supreme Court. R.S.O. 1980, c. 100, s. 16.

Counter-
claims, etc.

(6) This section applies with necessary modifications to a counterclaim, crossclaim, third or subsequent party claim or a defence of set off, in which a claim is made in excess of the monetary limit mentioned in clause 32 (1) (a). R.S.O. 1980, c. 100, s. 15.

Transfer of
all claims in
main action

(7) Where an action is transferred to the Supreme Court under this section, any counterclaim, crossclaim or third or subsequent party claim in the action shall also be transferred unless a judge of the Supreme Court orders otherwise, and where a counterclaim, crossclaim or third or subsequent party claim is transferred to the Supreme Court under this section, the main action and any other counterclaim, crossclaim or third or subsequent party claim in the main action shall also be transferred unless a judge of the Supreme Court orders otherwise. *New.*

Transfer
from
Supreme
Court to
District
Court

34.—(1) An action in the Supreme Court may be transferred to the District Court by the local registrar of the Supreme Court in the county or district where the action was

commenced, upon requisition with the consent of all parties filed before the trial commences.

(2) On motion to a judge of the High Court made before the trial commences, an action in the Supreme Court may be transferred to the District Court where it appears probable that the amount of a judgment in the action will be, or the value of property that is the subject of the action is, within the monetary jurisdiction of the District Court.

Idem, by order

(3) Where an action is transferred to the District Court under this section,

Conduct of transferred proceeding

(a) the court has the monetary jurisdiction to hear and determine the action; and

(b) the action shall be titled in the District Court and shall be continued as if it had been commenced in that court. *New.*

35.—(1) With respect to any matter within its jurisdiction, the District Court has the same powers as the Supreme Court to conduct its proceedings, grant remedies and enforce its orders and other process. R.S.O. 1980, c. 100, ss. 20, 26.

Powers of Court

(2) The District Court may punish by fine or imprisonment, or by both, a wilful contempt of or resistance to its process, rules or orders, but the fine shall not in any case exceed \$10,000 nor shall the imprisonment exceed six months. R.S.O. 1980, c. 100, s. 27.

Contempt of Court

36.—(1) An appeal from a final order of a judge of the District Court, except an order referred to in subsection (2), lies to the Court of Appeal. R.S.O. 1980, c. 100, ss. 31, 34.

Appeal to Court of Appeal

(2) An appeal lies to the Divisional Court from a final order of a judge of the District Court,

Appeal to Divisional Court

(a) for a single payment of not more than \$25,000, exclusive of costs;

(b) for periodic payments that amount to not more than \$25,000, exclusive of costs, in the twelve months commencing on the date the first payment is due under the order;

(c) dismissing a claim for an amount that is not more than the amount set out in clause (a) or (b); or

- (d) dismissing a claim for an amount that is more than the amount set out in clause (a) or (b) and in respect of which the judge indicates that if the claim had been allowed the amount awarded would have been not more than the amount set out in clause (a) or (b). *New.*

Appeal from
interlocutory
orders

(3) Subject to subsection (4), an appeal from an interlocutory order of a judge of the District Court lies to the High Court. R.S.O. 1980, c. 100, s. 40.

Idem

(4) No appeal lies from an interlocutory order of a judge of the District Court made on an appeal from an interlocutory order of the Provincial Court (Family Division).

Appeal from
assessment of
costs

(5) An appeal from a certificate of assessment of costs issued in a proceeding in the District Court, where the appeal is on an issue in respect of which an objection was served under the Rules of Civil Procedure, lies to the High Court. *New.*

OFFICERS

Local
registrars

37.—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint a local registrar of the District Court for each county and district and additional local registrars for such counties and districts as are indicated in the appointment. R.S.O. 1980, c. 100, s. 4 (1).

Deputy local
registrar

(2) With the approval of the Attorney General, every local registrar of the District Court may appoint in writing a deputy local registrar who may exercise and perform all the powers and duties of the local registrar. R.S.O. 1980, c. 223, s. 85.

PART III

UNIFIED FAMILY COURT

Unified
Family Court

38. The Unified Family Court is continued as a court of record in and for the Judicial District of Hamilton-Wentworth. R.S.O. 1980, c. 515, s. 2.

Jurisdiction
of judges

39.—(1) The Unified Family Court shall be presided over by a judge of the District Court who is a local judge of the High Court and who is authorized under subsection (2) to exercise the jurisdiction of a judge of the Provincial Court (Family Division). R.S.O. 1980, c. 515, s. 3 (1, 6).

Authority for
family court
matters

(2) The Lieutenant Governor in Council may authorize a judge of the District Court who is a local judge of the High

Court to exercise the jurisdiction of a judge of the Provincial Court (Family Division). R.S.O. 1980, c. 515, s. 3 (2, 6).

(3) All the jurisdiction of the Supreme Court or a judge thereof under the statutory provisions set out in the Schedule to this Part, other than by way of appeal, may be exercised by a local judge of the High Court who is a judge who may preside over the Unified Family Court. R.S.O. 1980, c. 515, s. 3 (3); 1982, c. 21, s. 1.

Jurisdiction
of local
judge of
High Court

(4) A judge who may preside over the Unified Family Court shall exercise his or her jurisdiction as a local judge of the High Court, a judge of the District Court, or a judge of the Provincial Court (Family Division) in the matters in which the Supreme Court, the District Court, or the Provincial Court (Family Division) or a judge thereof has jurisdiction under the statutory provisions set out in the Schedule to this Part. R.S.O. 1980, c. 515, s. 3 (4, 6).

Exercise of
existing
jurisdiction

40.—(1) Proceedings taken in a court in the Judicial District of Hamilton-Wentworth under the statutory provisions set out in the Schedule to this Part, other than by way of appeal, shall be commenced and titled in the Unified Family Court and the jurisdiction of the court shall be exercised in the Unified Family Court. R.S.O. 1980, c. 515, s. 4 (1).

Proceedings
in Unified
Family Court

(2) A motion for interim relief under the *Divorce Act* (Canada), the *Family Law Reform Act* or the *Children's Law Reform Act* in a proceeding in the Supreme Court or District Court that is required or permitted by the Rules of Civil Procedure or an order of the court to be heard in the Judicial District of Hamilton-Wentworth, shall be heard in the Unified Family Court. *New.*

Idem
R.S.C. 1970,
c. D-8;
R.S.O. 1980,
cc. 152, 68

(3) The court has and may exercise the same *parens patriae* powers as the Supreme Court in respect of any matter before it. R.S.O. 1980, c. 515, s. 4 (3).

*Parens
patriae*
powers

(4) All proceedings commenced in or transferred to the Unified Family Court shall be heard and determined without a jury. R.S.O. 1980, c. 515, s. 7 (2).

No jury

41. Where a proceeding is commenced in the Unified Family Court in a matter over which jurisdiction may be exercised in the Unified Family Court and is combined with a related matter in the jurisdiction of the judge but respecting which jurisdiction may not be exercised in the Unified Family Court, the court may, with leave of the judge and the consent of the parties, hear and determine the combined matters. R.S.O. 1980, c. 515, s. 5.

Consent to
jurisdiction

Orders of
predecessor
court
R.S.O. 1980,
c. 152

42.—(1) The Unified Family Court may hear and determine an application under the *Family Law Reform Act* to discharge, vary or suspend an order made by the Provincial Court (Family Division) of the Judicial District of Hamilton-Wentworth. R.S.O. 1980, c. 515, s. 6 (1).

Enforcement

(2) The Unified Family Court may enforce orders made by the Provincial Court (Family Division) of the Judicial District of Hamilton-Wentworth. R.S.O. 1980, c. 515, s. 23 (3).

Powers

43.—(1) In all proceedings in which jurisdiction may be exercised in the Unified Family Court, the court has the same powers as the Supreme Court to conduct its proceedings, grant remedies and enforce its orders and other process. R.S.O. 1980, c. 515, s. 8 (1).

Contempt

(2) The Unified Family Court may punish by fine or imprisonment, or by both, any wilful contempt of or resistance to its process, rules or orders, or to an order of the Supreme Court or the County Court of the Judicial District of Hamilton-Wentworth made before the 1st day of July, 1977 in a matter that is in the jurisdiction of the Unified Family Court, but the fine shall not in any case exceed \$10,000 nor shall the imprisonment exceed six months. R.S.O. 1980, c. 515, s. 12 (1); 1982, c. 21, s. 5.

Application
of R.S.O.
1980, c. 103,
s. 4 (3)

(3) Subsection 4 (3) of the *Creditors' Relief Act* applies to a garnishment issued by the Unified Family Court. 1982, c. 21, s. 3 (2).

Place where
proceedings
commenced

44.—(1) Subject to subsection (2), proceedings referred to in subsection 40 (1) may be commenced in the Unified Family Court where the applicant or the respondent resides in the Judicial District of Hamilton-Wentworth. R.S.O. 1980, c. 515, s. 9 (1); 1982, c. 21, s. 4 (1).

Idem,
custody or
access
R.S.O. 1980,
c. 68

(2) An application under Part III of the *Children's Law Reform Act* in respect of a child who ordinarily resides in the Judicial District of Hamilton-Wentworth may be commenced in the Unified Family Court. 1982, c. 21, s. 4 (2).

Transfer to
other court

(3) A judge who may preside over the Unified Family Court may, upon motion, order that a proceeding commenced in the Unified Family Court be transferred to the appropriate court in a place where there is no Unified Family Court where, in the opinion of the judge, there is a preponderance of convenience for the matter to be dealt with by that court.

Transfer
from other
court

(4) A judge of a court having jurisdiction in a proceeding referred to in subsection 40 (1) in a county or district other

than the Judicial District of Hamilton-Wentworth may, upon motion, order that the proceeding be transferred to the Unified Family Court where, in the opinion of the judge, there is a preponderance of convenience for the matter to be dealt with by that court.

(5) A judge making an order under subsection (3) or (4) may give such directions for the transfer as are considered just. R.S.O. 1980, c. 515, s. 9 (2-4). Directions

45. An order of a judge presiding over the Unified Family Court made in the exercise of his or her jurisdiction as a local judge of the High Court or a judge of the District Court is an order of the Supreme Court or the District Court, respectively, for all purposes. R.S.O. 1980, c. 515, s. 14. Status of orders

46.—(1) Subject to subsections (2) and (3), a provision for an appeal from an order made under the statutory provisions set out in the Schedule to this Part applies to the order when made in the exercise of the jurisdiction by a judge presiding over the Unified Family Court. R.S.O. 1980, c. 515, s. 15 (1). Appeals

(2) Where an order made by the Unified Family Court under a statutory provision set out in the Schedule to this Part is within the jurisdiction of the Supreme Court or the District Court outside the Judicial District of Hamilton-Wentworth, the order shall, for the purposes of an appeal, be deemed to have been made by a judge of the High Court. *New.* Idem

(3) A provision for an appeal to the District Court or a judge thereof from an order that is made by the Unified Family Court under the statutory provisions set out in the Schedule to this Part shall be deemed to provide for an appeal to the High Court. Idem

(4) Where no provision is made for an appeal from an order of a judge presiding over the Unified Family Court, an appeal lies, Idem

(a) to the Court of Appeal from a final order, except an order referred to in clause (b);

(b) to the Divisional Court from a final order,

(i) for a single payment of not more than \$25,000, exclusive of costs,

(ii) for periodic payments that amount to not more than \$25,000, exclusive of costs, in the

twelve months commencing on the date the first payment is due under the order,

(iii) dismissing a claim for an amount that is not more than the amount set out in subclause (i) or (ii), or

(iv) dismissing a claim for an amount that is more than the amount set out in subclause (i) or (ii) and in respect of which the judge indicates that if the claim had been allowed the amount awarded would have been not more than the amount set out in subclause (i) or (ii); or

(c) to the High Court from an interlocutory order.
R.S.O. 1980, c. 515, s. 15 (2, 3).

Criminal
jurisdiction
R.S.C. 1970,
c. C-34

47.—(1) A judge presiding over the Unified Family Court has all the powers of a magistrate under the *Criminal Code* (Canada) for the purposes of proceedings under the *Criminal Code* (Canada) and the Unified Family Court,

R.S.O. 1980,
c. 400

(a) shall be deemed to be and shall sit as the Provincial Offences Court for the purpose of dealing with young persons as defined in the *Provincial Offences Act*; and

S.C. 1980-
81-82-83,
c. 110

(b) is a youth court for the purposes of the *Young Offenders Act* (Canada). R.S.O. 1980, c. 515, s. 17; 1983, c. 80, s. 3; 1983, c. 86, s. 1.

Repeal of
s. (1) (b)

(2) Clause (1) (b) is repealed on the 1st day of April, 1985.
1983, c. 86, s. 2.

Clerk
R.S.O. 1980,
c. 418

48.—(1) A clerk of the Unified Family Court shall be appointed for the court under the *Public Service Act*.
R.S.O. 1980, c. 515, s. 17.

Idem

(2) The clerk of the Unified Family Court is the clerk of that court sitting as the Provincial Offences Court. 1983, c. 80, s. 2 (4).

Conciliation
service

49. A conciliation service may be established, maintained and operated as part of the Unified Family Court. R.S.O. 1980, c. 515, s. 18.

Regulations

50. The Lieutenant Governor in Council may make regulations,

- (a) specifying the returns to be made by the Unified Family Court;
- (b) prescribing the functions of and providing for a conciliation service under this Part;
- (c) prescribing the duties of the officers and employees of the Unified Family Court or of any class of such officers or employees;
- (d) providing for a system of statistical records relating to the Unified Family Court. R.S.O. 1980, c. 515, s. 22.

51.—(1) The Lieutenant Governor in Council may make Rules rules for the Unified Family Court in relation to the practice and procedure of the court and may make rules for the court, even though they alter or conform to the substantive law, in relation to,

- (a) conduct of proceedings in the court;
- (b) joinder of claims and parties, and representation of parties;
- (c) commencement of proceedings and service of process in or outside Ontario;
- (d) discovery and other forms of disclosure before hearing, including the scope thereof and the admissibility and use of such discovery and disclosure in a proceeding;
- (e) examination of witnesses in or out of court;
- (f) duties of clerks and other officers;
- (g) references of proceedings or issues in a proceeding and the powers of a person conducting a reference;
- (h) costs of proceedings;
- (i) enforcement of orders and process;
- (j) payment into and out of court;
- (k) any matter that is referred to in an Act as provided for by rules of court.

Idem

(2) Nothing in subsection (1) authorizes the making of rules that conflict with an Act, but rules may be made under subsection (1) supplementing the provisions of an Act in respect of practice and procedure. R.S.O. 1980, c. 515, s. 21.

(3) The Rules of Civil Procedure and the rules of the Provincial Court (Family Division) do not apply to proceedings in the Unified Family Court. *New.*

SCHEDULE

Jurisdiction under the following statutory provisions:

Statutes	Provisions
Annulment of Marriages Act (Ontario) (Canada)	All
Child Welfare Act	Parts II, III and IV
Children's Law Reform Act	All, Except Sections 60 and 61
Children's Residential Services Act	Subs. 18 (1) except Cls. (a) and (b)
Divorce Act (Canada)	All
Education Act	Sections 29 and 30
Family Law Reform Act	All, except Part V
Marriage Act	Sections 6 and 9
Minors' Protection Act	Section 2
Reciprocal Enforcement of Maintenance Orders Act, 1982	All
Training Schools Act	Section 8
Young Offenders Act (Canada)	All

R.S.O. 1980, c. 515, Sched.; 1982, c. 20, s. 5.

PART IV

PROVINCIAL COURTS

JUDGES

Appointment of judges

52.—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint such provincial judges as are considered necessary. R.S.O. 1980, c. 398, s. 2.

Qualifications

(2) No person shall be appointed as a provincial judge unless he or she has been a member of the bar of one of the provinces of Canada for at least ten years. *New.*

53.—(1) A provincial judge shall devote his or her whole time to the performance of his or her duties as a judge, except as authorized by the Lieutenant Governor in Council. Other employment

(2) Notwithstanding subsection (1), a provincial judge who, before the coming into force of this Part, had the consent of the Attorney General to act as an arbitrator or conciliator may continue to so act. Idem
R.S.O. 1980, c. 398, s. 12.

54.—(1) Every provincial judge shall retire upon attaining the age of sixty-five years. Retirement

(2) Notwithstanding subsection (1), a provincial judge appointed as a full-time magistrate, judge of a juvenile and family court or master after the 1st day of July, 1941 and before the 2nd day of December, 1968 shall retire upon attaining the age of seventy years. Idem

(3) Notwithstanding subsection (1), a provincial judge appointed as a full-time magistrate on or before the 1st day of July, 1941 shall retire upon attaining the age of seventy-five years. Idem
R.S.O. 1980, c. 398, s. 5 (1-3).

(4) A judge who has attained the age for retirement under subsection (1) may, subject to the annual approval of the Chief Judge, continue in office as a full-time or part-time judge until he or she attains the age of seventy years, and a judge who has attained the age of seventy years may, subject to the annual approval of the Judicial Council, continue in office as a full-time or part-time judge until he or she has attained the age of seventy-five years. Continuation of judges in office

(5) An associate chief judge or senior judge who is in office upon attaining the age for retirement under subsection (1) may, subject to the annual approval of the Chief Judge, continue in that office until he or she has attained the age of seventy years and an associate chief judge or senior judge who has attained the age of seventy years may, subject to the annual approval of the Judicial Council, continue in that office until he or she has attained the age of seventy-five years. Continuation of associate chief judge and senior judges in office

(6) A chief judge who is in office upon attaining the age for retirement under subsection (1) or (2) may, subject to the annual approval of the Judicial Council, continue in that office until he or she has attained the age of seventy-five years. Continuation of chief judge in office
R.S.O. 1980, c. 398, s. 5 (4, 5, 6); 1983, c. 18, s. 1.

55. A provincial judge may at any time resign from his or her office in writing, signed by the judge and delivered to the Lieutenant Governor. Resignation
R.S.O. 1980, c. 398, s. 6.

Removal for
cause

56.—(1) A provincial judge may be removed from office before attaining retirement age only if,

- (a) a complaint regarding the judge has been made to the Judicial Council; and
- (b) the removal is recommended by an inquiry held under section 61 on the ground that the judge has become incapacitated or disabled from the due execution of his or her office by reason of,
 - (i) infirmity,
 - (ii) conduct that is incompatible with the execution of his or her office, or
 - (iii) having failed to perform the duties of his or her office. R.S.O. 1980, c. 398, s. 4 (1).

Order for
removal

(2) An order removing a provincial judge from office under this section may be made by the Lieutenant Governor on the address of the Legislative Assembly. R.S.O. 1980, c. 398, s. 4 (3).

Judicial
Council

57.—(1) The Judicial Council for Provincial Judges is continued and shall be composed of,

- (a) the Chief Justice of Ontario, who shall preside over the Judicial Council;
- (b) the Chief Justice of the High Court;
- (c) the Chief Judge of the District Court;
- (d) the Chief Judge of the Provincial Court (Criminal Division);
- (e) the Chief Judge of the Provincial Court (Family Division);
- (f) the Chief Judge of the Provincial Court (Civil Division);
- (g) the Treasurer of The Law Society of Upper Canada; and
- (h) not more than two other persons appointed by the Lieutenant Governor in Council. R.S.O. 1980, c. 398, s. 7 (1).

(2) Where the Judicial Council is considering any matter relating to a master, the Senior Master is entitled to be present and participate as a member of the Council. *New.*

Senior
Master

(3) A majority of members of the Judicial Council constitutes a quorum and is sufficient for the exercise of all the jurisdiction and powers of the Judicial Council.

Quorum

(4) Such officers and employees of the Judicial Council as are considered necessary may be appointed under the *Public Service Act*. R.S.O. 1980, c. 398, s. 7 (2, 3).

Staff

R.S.O. 1980,
c. 418

(5) The Judicial Council may engage persons, including counsel, to assist it in its investigations. *New.*

Expert
assistance

58.—(1) The functions of the Judicial Council are,

Functions

(a) to consider all proposed appointments of provincial judges and make a report thereon to the Attorney General;

(b) to receive and investigate complaints against provincial judges. R.S.O. 1980, c. 398, s. 8 (1).

(2) No action or other proceeding for damages shall be instituted against the Judicial Council or any member or officer thereof or any person acting under its authority for any act done in good faith in the execution or intended execution of its or his or her duty. R.S.O. 1980, c. 398, s. 8 (6).

Liability for
damages

59.—(1) Where the Judicial Council receives a complaint against a provincial judge, it shall take such action to investigate the complaint as it considers advisable. R.S.O. 1980, c. 398, s. 8 (1) (c).

Investigation
of complaints

(2) The Judicial Council may transmit such complaints as it considers appropriate to the Chief Judge of the Provincial Court (Criminal Division), the Chief Judge of the Provincial Court (Family Division), the Chief Judge of the Provincial Court (Civil Division) or the Senior Master, as it considers appropriate. R.S.O. 1980, c. 398, s. 8 (2).

Referral to
Chief Judges

(3) The proceedings of the Judicial Council shall not be public, but it may inform the Attorney General respecting matters that it has investigated and the Attorney General may make public the fact that an investigation has been undertaken. R.S.O. 1980, c. 398, s. 8 (4).

Proceedings
not public

Prohibiting
publication

(4) The Judicial Council may order that information or documents relating to its proceedings not be published or disclosed except as required by law. *New.*

Powers

R.S.O. 1980,
c. 411

(5) The Judicial Council has all the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act. R.S.O. 1980, c. 398, s. 8 (5).

Notice of
disposition

(6) Where the Judicial Council has dealt with a complaint regarding a provincial judge, it shall inform,

(a) the person who made the complaint; and

(b) where the complaint was brought to the attention of the judge, the judge,

of its disposition of the complaint. *New.*

Report and
recommend-
ations

(7) The Judicial Council may report its opinion regarding the complaint to the Attorney General and may recommend,

(a) that an inquiry be held under section 60;

(b) that the judge be compensated for all or part of the costs incurred by the judge relating to the investigation. R.S.O. 1980, c. 398, s. 8 (3).

Copy to
judge

(8) A copy of a report made under subsection (7) shall be given to the judge.

Right to be
heard

(9) The Judicial Council shall not make a report under subsection (7) unless the judge was notified of the investigation and given an opportunity to be heard and to produce evidence on his or her behalf.

Publication
of report

(10) Where the Judicial Council makes a report to the Attorney General under subsection (7), the Attorney General may make all or part of the report public, if he or she is of the opinion that it is in the public interest to do so. *New.*

Inquiry

60.—(1) The Lieutenant Governor in Council may appoint a judge of the Supreme Court to inquire into the question whether a provincial judge should be removed from office.

Powers

(2) The *Public Inquiries Act* applies to an inquiry under subsection (1). R.S.O. 1980, c. 398, s. 4 (2).

Report

(3) The report of the inquiry may recommend,

- (a) that the judge be removed from office;
- (b) that the judge be compensated for all or part of the costs incurred by the judge relating to the inquiry. *New.*

(4) The report of the inquiry shall be laid before the Legislative Assembly if it is in session or, if not, within fifteen days of the commencement of the next ensuing session. R.S.O. 1980, c. 398, s. 4 (3). Tabling of report

61.—(1) Every provincial judge has jurisdiction throughout Ontario and, Jurisdiction of judges

- (a) shall exercise all the powers and perform all the duties conferred or imposed on a provincial judge by or under any Act of the Legislature or of the Parliament of Canada;
- (b) subject to subsection (2), may exercise all the powers and perform all the duties conferred or imposed on a magistrate, provincial magistrate or one or more justices of the peace under any Act of the Parliament of Canada. R.S.O. 1980, c. 398, s. 9 (1) (a, c).

(2) A provincial judge shall not exercise the jurisdiction conferred on a magistrate under Part XVI of the *Criminal Code* (Canada) unless, Idem
R.S.C. 1970,
c. C-34

- (a) he or she has been a member of the bar of one of the provinces of Canada; or
- (b) he or she has acted as a provincial judge for a period of five years,

and the judge is so designated by the Lieutenant Governor in Council. R.S.O. 1980, c. 398, s. 9 (3).

(3) Every provincial judge is a justice of the peace and commissioner for taking affidavits. R.S.O. 1980, c. 398, s. 9 (1) (d). Idem

62. Jurisdiction conferred on a provincial judge, justice of the peace or provincial court shall, in the absence of express provision for procedures therefor in any Act, regulation or rule, be exercised in any manner consistent with the due administration of justice. R.S.O. 1980, c. 398, s. 9 (2). Where procedures not provided

Chief Judges

63.—(1) The Lieutenant Governor in Council may appoint a provincial judge as Chief Judge of the Provincial Court (Criminal Division), a provincial judge as Chief Judge of the Provincial Court (Family Division) and a provincial judge as Chief Judge of the Provincial Court (Civil Division).

Chief Judge of Provincial Offences Court

(2) The Chief Judge of the Provincial Court (Criminal Division) is Chief Judge of the Provincial Offences Court. R.S.O. 1980, c. 398, s. 10 (1, 2).

Idem

(3) The Chief Judge of the Provincial Court (Family Division) is the Chief Judge of the Provincial Court (Family Division) sitting as the Provincial Offences Court.

Idem

(4) Subsection (2) does not apply to the Unified Family Court sitting as the Provincial Offences Court. 1983, c. 80, s. 2 (1).

Duties of Chief Judge

(5) Each Chief Judge has general supervision and direction over the sittings of his or her court and the assignment of the judicial duties of the court except that in counties and districts where the Provincial Court (Civil Division) is presided over by a judge of the District Court, the Chief Judge of the District Court and, subject to the authority of the Chief Judge, the senior judge of the District Court in that county or district has general supervision and direction over the sittings of the court and the assignment of the judicial duties of the court.

Associate Chief Judge

(6) The Lieutenant Governor in Council may appoint a provincial judge as Associate Chief Judge of the Provincial Court (Criminal Division) and a provincial judge as Associate Chief Judge of the Provincial Court (Family Division). R.S.O. 1980, c. 398, s. 10 (3, 4).

Absence of Chief Judge

(7) Where the Chief Judge is absent from Ontario or is for any reason unable to act, all the powers and duties of the Chief Judge shall be exercised and performed by the Associate Chief Judge or, where both are absent or unable to act, by a judge designated by the Chief Judge. *New.*

Senior judges

64.—(1) The Lieutenant Governor in Council may designate a provincial judge to be a senior judge of the Provincial Court (Criminal Division), Provincial Court (Family Division) or Provincial Court (Civil Division), for such area as is named in the designation. R.S.O. 1980, c. 398, s. 11.

Duties

(2) A senior judge shall, subject to the authority of the chief judge, direct and supervise the sittings and the assignment of the judicial duties of the court in the area. *New.*

65. A chief judge, associate chief judge or senior judge who has, Election to
revert to
office of
judge

- (a) continued in one or more of those offices for at least five years; or
- (b) continued in office after attaining the age for retirement,

may elect by notice to the Attorney General to cease to perform the duties of that office and to assume the office of a provincial judge only. *New.*

PROVINCIAL COURT (CRIMINAL DIVISION)

66.—(1) The provincial courts (criminal division) for the counties and districts are amalgamated and continued as a single court of record named the Provincial Court (Criminal Division). Provincial
Court
(Criminal
Division)

(2) The Provincial Court (Criminal Division) shall be presided over by a provincial judge. R.S.O. 1980, c. 398, s. 14. Judge to
preside

67. A provincial judge shall exercise the powers and perform the duties vested in him or her as a magistrate, provincial magistrate or one or more justices of the peace under section 62 sitting in the Provincial Court (Criminal Division). R.S.O. 1980, c. 398, s. 15. Exercise of
criminal
jurisdiction

PROVINCIAL OFFENCES COURT

68.—(1) The provincial offences courts for the counties and districts are amalgamated and continued as a single court of record named the Provincial Offences Court. Provincial
Offences
Court

(2) The Provincial Offences Court shall be presided over by a provincial judge or justice of the peace. R.S.O. 1980, c. 398, s. 18 (1). Judge or
justice of the
peace to
preside

69. The Provincial Offences Court shall perform any function assigned to it by or under the *Provincial Offences Act* or any other Act. R.S.O. 1980, c. 398, s. 18 (2). Jurisdiction
R.S.O. 1980,
c. 400

70.—(1) A proceeding in the Provincial Offences Court against a young person as defined in the *Provincial Offences Act* shall be conducted in the Provincial Court (Family Division) or, in the Judicial District of Hamilton-Wentworth, in the Unified Family Court, sitting as the Provincial Offences Court. 1983, c. 80, s. 2 (2). Sittings:
young
persons

- Joint sittings (2) Where a proceeding in which the Provincial Offences Court has jurisdiction is conducted during the course of a sitting of the Provincial Court (Criminal Division) or Provincial Court (Family Division), the proceeding shall be deemed to be conducted in the Provincial Offences Court. R.S.O. 1980, c. 398, s. 19 (2).
- Contempt **71.**—(1) Except as otherwise provided by an Act, every person who commits contempt in the face of the Provincial Offences Court is on conviction liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both.
- Statement to offender (2) Before proceedings are taken for contempt under subsection (1), the court shall inform the offender of the conduct complained of and the nature of the contempt and inform him or her of the right to show cause why he or she should not be punished.
- Show cause (3) A punishment for contempt in the face of the court shall not be imposed without giving the offender an opportunity to show cause why he or she should not be punished.
- Adjournment for adjudication (4) Except where, in the opinion of the court, it is necessary to deal with the contempt immediately for the preservation of order and control in the courtroom, the court shall adjourn the contempt proceeding to another day.
- Adjudication by judge (5) Where a contempt proceeding is adjourned to another day under subsection (4), the contempt proceeding shall be heard and determined by the court presided over by a provincial judge.
- Arrest for immediate adjudication (6) Where the court proceeds to deal with a contempt immediately and without adjournment under subsection (4), the court may order the offender arrested and detained in the courtroom for the purpose of the hearing and determination.
- Barring agent in contempt (7) Where the offender is appearing before the court as an agent who is not a barrister and solicitor entitled to practise in Ontario, the court may order that he or she be barred from acting as agent in the proceeding in addition to any other punishment to which he or she is liable.
- Appeals (8) An order of punishment for contempt under this section is appealable in the same manner as if it were a conviction in proceedings commenced by certificate under Part I of the *Provincial Offences Act*.
- R.S.O. 1980, c. 400

(9) The *Provincial Offences Act* applies for the purpose of enforcing a punishment by way of a fine or imprisonment under this section. R.S.O. 1980, c. 398, s. 20.

Enforcement
R.S.O. 1980,
c. 400

72. Any person who knowingly disturbs or interferes with the proceedings of the Provincial Offences Court, without reasonable justification, while outside the courtroom is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both. R.S.O. 1980, c. 398, s. 21.

Penalty for
disturbance
outside
courtroom

73.—(1) There shall be a Rules Committee of the Provincial Offences Court composed of such members as are appointed by the Lieutenant Governor in Council who shall designate one of the members to preside over the Committee.

Rules
Committee

(2) A majority of the members of the Rules Committee constitutes a quorum. *New.*

Quorum

(3) Subject to the approval of the Lieutenant Governor in Council, the Rules Committee of the Provincial Offences Court may make rules,

Rules

- (a) regulating any matters relating to the practice and procedure of the Provincial Offences Court;
- (b) prescribing forms respecting proceedings in the court;
- (c) regulating the duties of the clerks and employees of the court;
- (d) prescribing and regulating the procedures under any Act that confers jurisdiction on the Provincial Offences Court or a judge or justice of the peace sitting therein;
- (e) prescribing any matter that is referred to in an Act as provided for by the rules of the Provincial Offences Court. R.S.O. 1980, c. 398, s. 22.

PROVINCIAL COURT (FAMILY DIVISION)

74.—(1) The provincial courts (family division) for the counties and districts are amalgamated and continued as a single court of record named the Provincial Court (Family Division).

Provincial
Court
(Family
Division)

Judge to
preside (2) The Provincial Court (Family Division) shall be pre-
sided over by a provincial judge. R.S.O. 1980, c. 398, s. 23
(1).

Jurisdiction **75.**—(1) The Provincial Court (Family Division),
(a) shall be deemed to be and shall sit as the Provincial
Offences Court for the purpose of dealing with
young persons as defined in the *Provincial Offences
Act*;
R.S.O. 1980,
c. 400
(b) is a youth court for the purposes of the *Young
Offenders Act* (Canada); and
(c) shall perform any function assigned to it by or
under the *Family Law Reform Act*, the *Children's
Law Reform Act*, the *Child Welfare Act* or any
other Act. R.S.O. 1980, c. 398, s. 23 (2); 1983,
c. 80, s. 2 (3); 1983, c. 85, s. 1.
S.C. 1980-
81-82-83,
c. 110
R.S.O. 1980,
cc. 152, 68,
66

Repeal of
s. (1) (b) (2) Clause (1) (b) is repealed on the 1st day of April, 1985.
1983, c. 85, s. 2.

Rules
Committee **76.**—(1) The rules committee of the provincial courts
(family division) is continued as the Rules Committee of the
Provincial Court (Family Division) and shall be composed of
such members as are appointed by the Lieutenant Governor
in Council who shall designate one of the members to preside
over the committee.

Quorum (2) A majority of the members of the Rules Committee
constitutes a quorum.

Rules (3) Subject to the approval of the Lieutenant Governor in
Council, the Rules Committee of the Provincial Court (Family
Division) may make rules in relation to the practice and pro-
cedure of the court and may make rules for the court, even
though they alter or conform to the substantive law, in rela-
tion to,

- (a) conduct of proceedings in the court;
- (b) joinder of claims and parties and representation of
parties;
- (c) commencement of proceedings and service of
process in or outside Ontario;
- (d) discovery and other forms of disclosure before hear-
ing, including the scope thereof and the admissibil-

ity and use of such discovery and disclosure in a proceeding;

- (e) examination of witnesses in or out of court;
- (f) duties of clerks and other officers;
- (g) costs of proceedings;
- (h) enforcement of orders and process;
- (i) payment into and out of court;
- (j) any matter that is referred to in an Act as provided for by rules of court.

(4) Nothing in subsection (3) authorizes the making of rules that conflict with an Act, but rules may be made under subsection (3) supplementing the provisions of an Act in respect of practice and procedure. R.S.O. 1980, c. 398, s. 32. Idem

PROVINCIAL COURT (CIVIL DIVISION)

77.—(1) The small claims courts and the Provincial Court (Civil Division) are amalgamated and continued as a single court of record named the Provincial Court (Civil Division) and may also be known as the Small Claims Court. Provincial Court (Civil Division)

(2) The Provincial Court (Civil Division) shall be presided over by, Judges to preside

- (a) a provincial judge; or
- (b) a judge of the District Court.

(3) A judge of the District Court or the Chief Judge of the Provincial Court (Civil Division) may, with the approval of the Attorney General, appoint a barrister and solicitor to act as a deputy judge of the Provincial Court (Civil Division), and the person so appointed may preside over the court in actions for not more than \$1,000. R.S.O. 1980, c. 476, ss. 3, 6, 14, 15. Deputy judges

78.—(1) The Provincial Court (Civil Division), Jurisdiction

- (a) has jurisdiction in any action for the payment of money where the amount claimed does not exceed \$1,000 exclusive of interest and costs;

(b) has jurisdiction in any action for the recovery of possession of personal property where the value of the property does not exceed \$1,000; and

(c) shall perform any function assigned to it by or under an Act. R.S.O. 1980, c. 476, s. 55.

Idem

(2) In the Judicial District of York and in such other areas as are designated under clause 87 (f), the maximum claim or value of \$1,000 set out in subsection (1) shall be \$3,000 in each instance and not as set out therein. R.S.O. 1980, c. 397, s. 6 (1).

Summary
hearings

(3) The Provincial Court (Civil Division) shall hear and determine in a summary way all questions of law and fact and may make such order as is considered just and agreeable to good conscience. R.S.O. 1980, c. 476, s. 57.

Represent-
tation

79. A party may be represented in a proceeding in the Provincial Court (Civil Division) by counsel or an agent but the court may exclude from a hearing anyone, other than a barrister and solicitor qualified to practise in Ontario, appearing as an agent on behalf of a party if it finds that such person is not competent properly to represent the party or does not understand and comply at the hearing with the duties and responsibilities of an advocate. R.S.O. 1980, c. 476, s. 100.

Evidence

80.—(1) Subject to subsections (2) and (3), the Provincial Court (Civil Division) may admit as evidence at a hearing, whether or not given or proven under oath or affirmation or admissible as evidence in any other court,

(a) any oral testimony; and

(b) any document or other thing,

relevant to the subject-matter of the proceeding and may act on such evidence, but the court may exclude anything unduly repetitious.

Idem

(2) Nothing is admissible in evidence at a hearing,

(a) that would be inadmissible by reason of any privilege under the law of evidence; or

(b) that is inadmissible by any Act.

Conflicts

(3) Nothing in subsection (1) overrides the provisions of any Act expressly limiting the extent to or purposes for which any

oral testimony, documents or things may be admitted or used in evidence in any proceedings.

(4) Where the presiding judge is satisfied as to its authenticity, a copy of a document or any other thing may be admitted as evidence at a hearing. R.S.O. 1980, c. 476, s. 98. Copies

81. The Provincial Court (Civil Division) may order the times and the proportions in which money payable under an order of the court shall be paid. R.S.O. 1980, c. 476, s. 102 (1). Instalment orders

82. Orders of the Provincial Court (Civil Division) shall be directed to a bailiff appointed under subsection 86 (4) for enforcement, unless otherwise provided by the rules of the Provincial Court (Civil Division). *New.* Enforcement of orders

83. An appeal lies to the Divisional Court from a final order of the Provincial Court (Civil Division) in an action, Appeals

(a) for the payment of money in excess of \$500, excluding costs; or

(b) for the recovery of possession of personal property exceeding \$500 in value. R.S.O. 1980, c. 476, s. 108.

84.—(1) An action in the Supreme Court or the District Court in which, Transfer from Supreme or District Court

(a) the only claim is for the payment of money or the recovery of possession of personal property; and

(b) the claim is within the jurisdiction of the Provincial Court (Civil Division),

may be transferred to the Provincial Court (Civil Division) by the local registrar of the Supreme Court or District Court in the county or district where the action was commenced, upon requisition with the consent of all parties filed before the trial commences.

(2) An action transferred to the Provincial Court (Civil Division) under subsection (1) shall be titled and continued as if it had been commenced in that court. R.S.O. 1980, c. 397, s. 7 (2); 1982, c. 58, s. 5 (2). Idem

85.—(1) There shall be a Rules Committee of the Provincial Court (Civil Division) composed of such members as are Rules Committee

appointed by the Lieutenant Governor in Council who shall designate one of the members to preside over the committee.

Quorum

(2) A majority of the members of the Rules Committee constitutes a quorum.

Rules

(3) Subject to the approval of the Lieutenant Governor in Council, the Rules Committee of the Provincial Court (Civil Division) may make rules in relation to the practice and procedure of the court and may make rules for the court, even though they alter or conform to the substantive law, in relation to,

- (a) conduct of proceedings in the court;
- (b) joinder of claims and parties, settlement of claims by or against persons under disability, whether or not a proceeding has been commenced in respect of the claim, and representation of parties;
- (c) commencement of proceedings and service of process in or outside Ontario;
- (d) disposition of proceedings without a hearing and the effect thereof;
- (e) pleadings;
- (f) discovery and other forms of disclosure before hearing, including the scope thereof and the admissibility and use of such discovery and disclosure in a proceeding;
- (g) examination of witnesses in or out of court;
- (h) duties of clerks and other officers;
- (i) motions;
- (j) preservation of rights of parties pending the outcome of litigation, including sale, recovery of possession or preservation of property;
- (k) preparation for trial and offers to settle and their legal consequences;
- (l) the mode and conduct of trials;
- (m) costs of proceedings;

- (n) enforcement of orders and process;
- (o) payment into and out of court;
- (p) any matter that is referred to in an Act as provided for by rules of court.

(4) Nothing in subsection (3) authorizes the making of rules that conflict with an Act, but rules may be made under subsection (3) supplementing the provisions of an Act in respect of practice and procedure. *New.* Idem

OFFICERS

86.—(1) There shall be such clerks for the Provincial Court (Criminal Division) and the Provincial Court (Family Division) as are considered necessary, appointed under the *Public Service Act*. Clerks
R.S.O. 1980,
c. 418

(2) Each clerk of the Provincial Court (Criminal Division) is a clerk of the Provincial Offences Court. R.S.O. 1980, c. 398, s. 33. Idem

(3) Each clerk of the Provincial Court (Family Division) is the clerk of that court sitting as the Provincial Offences Court. 1983, c. 80, s. 2 (4). Idem

(4) There shall be a clerk and one or more bailiffs for each division of the Provincial Court (Civil Division) who shall be appointed by the Lieutenant Governor in Council. Clerk and
bailiff of
Provincial
Court (Civil
Division)

(5) The Lieutenant Governor in Council may appoint a referee for a division of the Provincial Court (Civil Division). R.S.O. 1980, c. 476, s. 20; 1983, c. 22, s. 1. Referee

REGULATIONS

87.—(1) The Lieutenant Governor in Council may make regulations, Regulations

- (a) specifying the returns to be made by provincial courts;
- (b) fixing the remuneration of provincial judges;
- (c) providing for the benefits to which provincial judges are entitled, including,
 - (i) leave of absence and vacations,

(ii) sick leave credits and payments in respect of such credits,

(iii) pension benefits for provincial judges and their surviving spouses and children,

and for the transfer or other disposition of benefits in respect thereof to which persons appointed as provincial judges were entitled under the *Public Service Act* or the *Public Service Superannuation Act* at the time of their appointment;

R.S.O. 1980,
cc. 418, 419

(d) prescribing the duties of the clerks and employees of provincial courts or of any class of such employees;

(e) prescribing territorial divisions for the Provincial Court (Civil Division) and the place within each division where the court office shall be located;

(f) designating areas in which the maximum claim or value of \$1,000 set out in subsection 78 (1) shall be \$3,000 in each instance and not as set out therein;

(g) providing for the retention of fees by clerks, bailiffs and referees of the Provincial Court (Civil Division) who are not civil servants under the *Public Service Act* and designating areas where clerks, bailiffs and referees of the Provincial Court (Civil Division) may be appointed to a position as a civil servant under that Act;

(h) providing for a system of statistical records relating to provincial courts. R.S.O. 1980, c. 398, s. 34 (1); R.S.O. 1980, c. 397, s. 9; 1982, c. 58, s. 6 (1) (b).

Contributions

(2) Regulations made under clause (1) (c) may require judges to contribute from their salaries part of the cost of benefits and may fix the amount of the contributions.

Application
of R.S.O.
1980, c. 419

(3) A regulation made under clause (1) (c) may modify or exclude the application of the *Public Service Superannuation Act*. 1983, c. 78, s. 2 (1).

Application
of regulations

(4) Any regulation made under subsection (1) may be general or particular in its application. R.S.O. 1980, c. 398, s. 34 (2).

88.—(1) There shall be a committee to be known as the Ontario Provincial Courts Committee, composed of three members, of whom,

- (a) one shall be appointed jointly by the Provincial Judges Association (Criminal Division), the Ontario Family Court Judges Association and the Provincial Court Judges Association of Ontario (Civil Division);
- (b) one shall be appointed by the Lieutenant Governor in Council; and
- (c) one, to be the chairman, shall be appointed jointly by the bodies referred to in clauses (a) and (b).

(2) The function of the Ontario Provincial Courts Committee is to inquire into and make recommendations to the Lieutenant Governor in Council respecting any matter relating to the remuneration, allowances and benefits of provincial judges, including the matters referred to in clauses 87 (b) and (c).

(3) The Ontario Provincial Courts Committee shall make an annual report of its activities to the Lieutenant Governor in Council.

(4) Recommendations of the Committee and its annual report under subsections (2) and (3) shall be laid before the Legislative Assembly if it is in session or, if not, within fifteen days of the commencement of the next ensuing session.

1983, c. 78, s. 2 (2).

PART V

RULES OF CIVIL PROCEDURE

89.—(1) The Rules Committee continued under the *Judicature Act*, being chapter 223 of the Revised Statutes of Ontario, 1980, is continued as the Rules Committee of the Supreme and District Courts and shall be composed of,

- (a) the Chief Justice of Ontario, the Chief Justice of the High Court, the Associate Chief Justice of Ontario and the Associate Chief Justice of the High Court;
- (b) five judges of the Supreme Court, who shall be appointed by the Chief Justice of Ontario;

- (c) the Chief Judge and Associate Chief Judge of the District Court;
- (d) four judges of the District Court, who shall be appointed by the Chief Judge of the District Court;
- (e) the Attorney General or such law officer of the Crown as the Attorney General may from time to time appoint;
- (f) the Senior Master;
- (g) the Registrar of the Supreme Court;
- (h) a sheriff or a local registrar of the Supreme or District Court, who shall be appointed by the Attorney General;
- (i) five barristers or solicitors, who shall be appointed by the Benchers of The Law Society of Upper Canada in convocation; and
- (j) five other barristers and solicitors, who shall be appointed by the Chief Justice of Ontario.

Idem (2) The Chief Justice of Ontario shall preside over the Rules Committee but, where the Chief Justice of Ontario is absent or so requests, the Chief Justice of the High Court shall preside.

Idem (3) The Chief Justice of Ontario and the Chief Justice of the High Court may jointly appoint either the Associate Chief Justice of Ontario or the Associate Chief Justice of the High Court to preside over the Rules Committee at such times as are set out in the appointment.

Tenure of office (4) Each of the members of the Rules Committee appointed under clause (1) (b), (d), (h), (i) or (j) shall hold office for a period of three years and is eligible for reappointment.

Vacancies (5) Where a vacancy occurs among the members appointed under clause (1) (b), (d), (h), (i) or (j), a new member similarly qualified may be appointed for the remainder of the unexpired term. R.S.O. 1980, c. 223, s. 116 (1-6).

Quorum (6) A majority of the members of the Rules Committee constitutes a quorum. R.S.O. 1980, c. 223, s. 116 (7).

90.—(1) Subject to the approval of the Lieutenant Governor in Council, the Rules Committee of the Supreme and District Courts may make rules for the Supreme Court and the District Court in relation to the practice and procedure of the courts and may make rules for such courts, even though they alter or conform to the substantive law, in relation to,

Rules of
Civil
Procedure

- (a) conduct of proceedings in the courts;
- (b) joinder of claims and parties, settlement of claims by or against persons under disability, whether or not a proceeding has been commenced in respect of the claim, the binding effect of orders and representation of parties;
- (c) commencement of proceedings, representation of parties by solicitors and service of process in or outside Ontario;
- (d) disposition of proceedings without a hearing and the effect thereof;
- (e) pleadings;
- (f) discovery and other forms of disclosure before hearing, including the scope thereof and the admissibility and use of such discovery and disclosure in a proceeding;
- (g) examination of witnesses in or out of court;
- (h) jurisdiction of local judges, including the conferral on local judges of any jurisdiction of the Supreme Court or a judge thereof, including jurisdiction under an Act, but not including the trial of actions;
- (i) jurisdiction of masters, including the conferral on masters of any jurisdiction of the Supreme Court, including jurisdiction under an Act, but not including the trial of actions or jurisdiction conferred by an Act on a judge;
- (j) jurisdiction and duties of officers and hours of business for court offices;
- (k) motions and applications, including the hearing of motions in the absence of the public and prohibiting a party from making motions without leave;

- (l) preservation of rights of parties pending the outcome of litigation, including sale, recovery of possession or preservation of property;
- (m) interpleader;
- (n) preparation for trial and offers to settle and their legal consequences;
- (o) the mode and conduct of trials;
- (p) the appointment by the court of independent experts, their remuneration and the admissibility and use of their reports;
- (q) the discount rate to be used in determining the amount of an award in respect of future pecuniary damages;
- (r) references of proceedings or issues in a proceeding and the powers of a person conducting a reference;
- (s) costs of proceedings, including security for costs and a solicitor's liability for or disentitlement to costs;
- (t) enforcement of orders and process or obligations under the rules;
- (u) the time for and procedure on appeals and stays pending appeal;
- (v) payment into and out of court;
- (w) any matter that is referred to in an Act as provided for by rules of court.

Idem

(2) Nothing in subsection (1) authorizes the making of rules that conflict with an Act, but rules may be made under subsection (1) supplementing the provisions of an Act in respect of practice and procedure. R.S.O. 1980, c. 223, s. 116 (10, 11).

PART VI

COURTS ADMINISTRATION

Attorney
General's
adminis-
trative
responsibility

91. The Attorney General shall superintend all matters connected with the administration of the courts, other than matters that are assigned by law to the judiciary. *New.*

92.—(1) There shall be an advisory council to be known as the Ontario Courts Advisory Council composed of,

Ontario
Courts
Advisory
Council

- (a) the Chief Justice of Ontario who shall preside, the Chief Justice of the High Court, the Associate Chief Justice of Ontario and the Associate Chief Justice of the High Court;
- (b) the Chief Judge of the District Court, the Associate Chief Judge of the District Court and the Senior Judge of the District Court for the Judicial District of York;
- (c) the Chief Judge of the Provincial Court (Criminal Division) and the Associate Chief Judge of the Provincial Court (Criminal Division);
- (d) the Chief Judge of the Provincial Court (Family Division) and the Associate Chief Judge of the Provincial Court (Family Division); and
- (e) the Chief Judge of the Provincial Court (Civil Division).

(2) The function of the Ontario Courts Advisory Council is to consider any matter relating to the administration of the courts that is referred to it by the Attorney General or that it considers appropriate on its own initiative, and to make recommendations thereon to the Attorney General and to the chief justices and chief judges of the various courts. *New.*

Functions

93. Judges and masters who have authority to assign judicial duties have authority over the preparation of trial lists and the assignment of courtrooms to the extent necessary to control the determination of who is assigned to hear particular cases. *New.*

Trial lists,
courtrooms

94. Court administrators, court reporters, interpreters, translators and such other employees as are considered necessary for the administration of the courts in Ontario may be appointed under the *Public Service Act*. R.S.O. 1980, c. 100, s. 4 (1); R.S.O. 1980, c. 398, s. 33 (3); R.S.O. 1980, c. 515, s. 17.

Appointment
of court staff

R.S.O. 1980,
c. 418

95.—(1) In matters that are assigned by law to the judiciary, registrars, court clerks, court reporters, interpreters and other court staff shall act at the direction of the chief justice or chief judge of the court.

Direction of
court staff

Idem

(2) Court personnel referred to in subsection (1) who are assigned to and present in a courtroom shall act at the direction of the presiding judge or master while the court is in session. R.S.O. 1980, c. 101, s. 14 (2); R.S.O. 1980, c. 398, ss. 26, 33 (1).

PART VII

JUDGES AND OFFICERS

Oath of office

96. Every judge or officer of a court in Ontario shall, before entering on the duties of office, take and sign the following oath or affirmation in either the English or French language:

I solemnly swear (affirm) that I will faithfully, and to the best of my skill and knowledge, execute the duties of
So help me God. (*Omit this line in an affirmation*)

R.S.O. 1980, c. 223, s. 84 (1).

*Persona
designata
abolished*

97. Where an adjudicative function is given by an Act to a judge or officer of a court in Ontario, the jurisdiction shall be deemed to be given to the court. *New.*

Liability of judges

98. Every judge of a court in Ontario and every master of the Supreme Court has the same immunity from liability as a judge of the Supreme Court. R.S.O. 1980, c. 223, s. 100 (4); R.S.O. 1980, c. 398, s. 13.

Compensation of judges for statutory duties

99. Every judge of the Supreme Court and of the District Court shall be paid out of the Consolidated Revenue Fund the annual sum of \$3,000, payable quarterly, as compensation for the services the judge is called on to render by any Act of the Legislature in addition to his or her ordinary duties. R.S.O. 1980, c. 149, s. 2.

Extra-judicial services

100.—(1) A judge of the Supreme Court or the District Court may act as a conciliator, arbitrator or referee or on a commission of inquiry under an Act of the Legislature or under an agreement made under any such Act.

Remuneration

(2) A judge acting under subsection (1) shall not receive any remuneration but shall be reimbursed for reasonable travelling and other expenses incurred while so acting. R.S.O. 1980, c. 149, s. 3.

Inspector of Legal Offices

101.—(1) The Lieutenant Governor in Council may appoint an Inspector of Legal Offices.

(2) The Inspector may inspect all court offices and such other offices connected with the administration of justice as the Attorney General designates. R.S.O. 1980, c. 223, s. 107 (1). Inspection

(3) The Inspector may inquire into the administration of any office that he or she is entitled to inspect and, for that purpose, the Inspector has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the inquiry as if it were an inquiry under that Act, but the Inspector may not summon a judge or master. R.S.O. 1980, c. 223, s. 108 (2). Inquiry by Inspector
R.S.O. 1980, c. 411

(4) Documents and other material that are no longer required in a court office shall be disposed of in accordance with the directions of the Inspector, subject to the approval of, Destruction of documents

- (a) in the Supreme Court, the Chief Justice of Ontario;
- (b) in the District Court, the Unified Family Court and the surrogate courts, the Chief Judge of the District Court;
- (c) in the Provincial Court (Criminal Division) and the Provincial Offences Court, the Chief Judge of the Provincial Court (Criminal Division);
- (d) in the Provincial Court (Family Division), the Chief Judge of the Provincial Court (Family Division);
- (e) in the Provincial Court (Civil Division) in the counties and districts where a judge of the District Court presides, the Chief Judge of the District Court and in other counties and districts the Chief Judge of the Provincial Court (Civil Division). R.S.O. 1980, c. 223, s. 108 (4).

102.—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint an Official Guardian. *New.* Official Guardian

(2) No person shall be appointed Official Guardian unless he or she has been a member of the bar of one of the provinces of Canada for at least ten years. Qualifications

(3) The Official Guardian shall act as litigation guardian of minors and other persons where required by an Act or the Rules of Civil Procedure, and in other cases may be authorized by a court to so act. Duties

Costs

(4) The same costs as are payable to litigation guardians are payable to the Official Guardian and costs recovered by the Official Guardian shall be paid into the Consolidated Revenue Fund. R.S.O. 1980, c. 223, s. 109 (1-3).

Security for costs

(5) The Official Guardian shall not be required to give security for costs in any proceeding. R.S.O. 1980, c. 223, s. 109 (15).

Mortgages held by Accountant

(6) Where a person for whom the Official Guardian has acted is interested in a mortgage held by the Accountant, the Official Guardian shall take reasonable care to ensure that,

(a) money payable on the mortgage is promptly paid;

(b) the mortgaged property is kept properly insured; and

(c) taxes on the mortgaged property are promptly paid.

Payment into court

(7) Money received by the Official Guardian on behalf of a person for whom he or she acts shall, unless the court orders otherwise, be paid into court to the credit of the person entitled.

Assessment of costs

(8) Where the amount payable into court under subsection (7) is to be ascertained by the deduction of unassessed costs from a fund, the Official Guardian may require the costs to be assessed forthwith. *New.*

Audit

(9) The Provincial Auditor shall examine and report on the accounts and financial transactions of the Official Guardian. R.S.O. 1980, c. 223, s. 109 (12).

Assessment officers

103.—(1) The Registrar of the Supreme Court of Ontario, each master, local registrar and deputy local registrar of the Supreme Court, local registrar and deputy local registrar of the District Court and the clerk of the Unified Family Court is an assessment officer.

Idem

(2) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint additional assessment officers.

Jurisdiction

(3) Every assessment officer has the jurisdiction conferred by the Rules of Civil Procedure.

Appeal from assessment of costs before tribunal

(4) Where costs of a proceeding before a tribunal other than a court are to be assessed by an assessment officer,

- (a) the Rules of Civil Procedure governing the procedure on an assessment of costs apply with necessary modifications; and
- (b) an appeal lies to the High Court from a certificate of assessment of the costs if an objection was served in respect of the issue appealed in accordance with the Rules of Civil Procedure. *New.*

104.—(1) Every local registrar and deputy local registrar of the Supreme Court and local registrar and deputy local registrar of the District Court is an official examiner for the county or district for which he or she is appointed. Official examiners

(2) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint additional official examiners. R.S.O. 1980, c. 223, s. 104 (1, 2). Additional official examiners

(3) With the approval of the Attorney General, every official examiner may appoint a deputy official examiner who may exercise and perform all the powers and duties of the official examiner. R.S.O. 1980, c. 223, s. 104 (7). Deputy official examiners

(4) Every official examiner and deputy official examiner is an officer of every court in Ontario. *New.* Officers of court

105. Every officer of a court has, for the purposes of any matter before him or her, power to administer oaths and affirmations and to examine parties and witnesses. R.S.O. 1980, c. 223, s. 124. Administration of oaths

106. Money or property vested in or held by an officer of a court shall be deemed to be vested in the officer in trust for Her Majesty, subject to being disposed of in accordance with any Act, rule of court or order. R.S.O. 1980, c. 223, s. 112. Money held by officer of court

107.—(1) All fees payable to a salaried officer of a court in respect of a proceeding in the court shall be paid into the Consolidated Revenue Fund. Disposition of court fees

(2) Subsection (1) does not apply to fees payable to court reporters under the *Administration of Justice Act*. R.S.O. 1980, c. 101, s. 10; R.S.O. 1980, c. 223, s. 87. Exception
R.S.O. 1980, c. 17

PART VIII

COURT PROCEEDINGS

108.—(1) This Part applies to civil proceedings in courts of Ontario. Application of Part

Application
to criminal
proceedings

R.S.C. 1970,
c. C-34

(2) Sections 122 (constitutional questions) and 133 (giving decisions), section 135 and subsection 136 (7) (language of proceedings) and sections 142 (judge sitting on appeal) and 146 (prohibition against photography at court hearing) also apply to proceedings under the *Criminal Code* (Canada), except in so far as they are inconsistent with that Act.

Application
to provincial
offences

R.S.O. 1980,
c. 400

(3) Sections 122 (constitutional questions), 135, 136 (language of proceedings), 142 (judge sitting on appeal) and 146 (prohibition against photography at court hearings) also apply to proceedings under the *Provincial Offences Act* and, for the purpose, a reference therein to a judge includes a justice of the peace presiding in the Provincial Offences Court. *New.*

COMMON LAW AND EQUITY

Rules of law
and equity

109.—(1) Courts shall administer concurrently all rules of equity and the common law. R.S.O. 1980, c. 223, s. 18.

Rules of
equity to
prevail

(2) Where a rule of equity conflicts with a rule of the common law, the rule of equity prevails.

Jurisdiction
for equitable
relief

(3) Unless otherwise provided, only the Supreme Court, the District Court and the Unified Family Court may grant equitable relief. R.S.O. 1980, c. 223, ss. 25, 26.

Declaratory
orders

110. The Supreme Court, the District Court and the Unified Family Court may make binding declarations of right whether or not any consequential relief is or could be claimed. R.S.O. 1980, c. 223, s. 18, par. 2.

Relief against
penalties

111. A court may grant relief against penalties and forfeitures, on such terms as to compensation or otherwise as are considered just. R.S.O. 1980, c. 228, s. 22.

Damages in
lieu of
injunction or
specific
performance

112. A court that has jurisdiction to grant an injunction or order specific performance may award damages in addition to, or in substitution for, the injunction or specific performance. R.S.O. 1980, c. 223, s. 21.

Vesting
orders

113. A court may by order vest in any person an interest in real or personal property that the court has authority to order be disposed of, encumbered or conveyed. R.S.O. 1980, c. 223, s. 79.

INTERLOCUTORY ORDERS

Injunctions
and receivers

114.—(1) In the Supreme Court, the District Court or the Unified Family Court, an interlocutory injunction or manda-

tory order may be granted or a receiver or receiver and manager may be appointed by an interlocutory order, where it appears to a judge of the court to be just or convenient to do so.

(2) An order under subsection (1) may include such terms as are considered just. R.S.O. 1980, c. 223, s. 19 (1). Terms

115.—(1) In this section, “labour dispute” means a dispute or difference concerning terms, tenure or conditions of employment or concerning the association or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee. “labour dispute” defined

(2) Subject to subsection (8), no injunction to restrain a person from an act in connection with a labour dispute shall be granted without notice. Notice

(3) In a motion or proceeding for an injunction to restrain a person from an act in connection with a labour dispute, the court must be satisfied that reasonable efforts to obtain police assistance, protection and action to prevent or remove any alleged danger of damage to property, injury to persons, obstruction of or interference with lawful entry or exit from the premises in question or breach of the peace have been unsuccessful. Steps before injunction proceeding

(4) Subject to subsection (8), affidavit evidence in support of a motion for an injunction to restrain a person from an act in connection with a labour dispute shall be confined to statements of facts within the knowledge of the deponent, but any party may by notice to the party filing such affidavit, and payment of the proper attendance money, require the attendance of the deponent to be cross-examined at the hearing. Evidence

(5) An interim injunction to restrain a person from an act in connection with a labour dispute may be granted for a period of not longer than four days. Interim injunction

(6) Subject to subsection (8), at least two days notice of a motion for an interim injunction to restrain a person from any act in connection with a labour dispute shall be given to the responding party and to any other person affected thereby but not named in the notice of motion. Notice

(7) Notice required by subsection (6) to persons other than the responding party may be given, Idem

- (a) where such persons are members of a labour organization, by personal service on an officer or agent of the labour organization; and
- (b) where such persons are not members of a labour organization, by posting the notice in a conspicuous place at the location of the activity sought to be restrained where it can be read by any persons affected,

and service and posting under this subsection shall be deemed to be sufficient notice to all such persons.

Interim
injunction
without
notice

(8) Where notice as required by subsection (6) is not given, the court may grant an interim injunction where,

- (a) the case is otherwise a proper one for the granting of an interim injunction;
- (b) notice as required by subsection (6) could not be given because the delay necessary to do so would result in irreparable damage or injury, a breach of the peace or an interruption in an essential public service;
- (c) reasonable notification, by telephone or otherwise, has been given to the persons to be affected or, where any of such persons are members of a labour organization, to an officer of that labour organization or to the person authorized under section 87 of the *Labour Relations Act* to accept service of process under that Act on behalf of that labour organization or trade union, or where it is shown that such notice could not have been given; and
- (d) proof of all material facts for the purpose of clauses (a), (b) and (c) is established by oral evidence.

R.S.O. 1980,
c. 228

Misrepresent-
ation as
contempt of
court

(9) The misrepresentation of any fact or the withholding of any qualifying relevant matter, directly or indirectly, in a proceeding for an injunction under this section, constitutes a contempt of court.

Appeal

(10) An appeal from an order under this section lies to the Court of Appeal without leave. R.S.O. 1980, c. 223, s. 20.

Certificate of
pending
litigation

116.—(1) The commencement of a proceeding in which an interest in land is in question is not notice of the proceeding to a person who is not a party until a certificate of pending litigation is issued by the court and the certificate is registered

in the proper land registry office under subsection (2).
R.S.O. 1980, c. 223, s. 38 (1).

(2) Where a certificate of pending litigation is issued under subsection (1) it may be registered whether the land is registered under the *Land Titles Act* or the *Registry Act*. *New.*

Registration

R.S.O. 1980,
cc. 230, 445

(3) Subsections (1) and (2) do not apply to a proceeding for foreclosure or sale on a registered mortgage or to enforce a lien under the *Construction Lien Act*, 1983.

Exception

1983, c. 6

(4) A party who registers a certificate under subsection (2) without a reasonable claim to an interest in the land is liable for any damages sustained by any person as a result of its registration.

Liability
where no
reasonable
claim

(5) The liability for damages under subsection (4) and the amount thereof may be determined in the proceeding in respect of which the certificate was registered or in a separate proceeding. R.S.O. 1980, c. 223, s. 38 (3-5).

Recovery of
damages

(6) The court may make an order discharging a certificate,

Order
discharging
certificate

(a) where the party at whose instance it was issued,

(i) claims a sum of money in place of or as an alternative to the interest in the land claimed,

(ii) does not have a reasonable claim to the interest in the land claimed, or

(iii) does not prosecute the proceeding with reasonable diligence;

(b) where the interests of the party at whose instance it was issued can be adequately protected by another form of security; or

(c) on any other ground that is considered just,

and the court may, in making the order, impose such terms as to the giving of security or otherwise as the court considers just. R.S.O. 1980, c. 223, s. 39 (1-3).

(7) Where a certificate is discharged, any person may deal with the land as fully as if the certificate had not been registered. R.S.O. 1980, c. 223, s. 39 (6).

Effect

(8) Subsections (1) to (7) apply with necessary modifications to a certificate or caution under section 38 of the *Judicature*

Application
of section

Act, being chapter 223 of the Revised Statutes of Ontario, 1980, registered after the 24th day of November, 1977 and before this *Act* comes into force.

Idem

(9) Subsections (1), (2), (3), (6) and (7) apply with necessary modifications to a certificate or caution under section 38 of the *Judicature Act* registered before the 25th day of November, 1977. R.S.O. 1980, c. 223, s. 38 (6).

R.S.O. 1980,
c. 223

Interim order
for recovery
of personal
property

117.—(1) In an action in which the recovery of possession of personal property is claimed and it is alleged that the property,

(a) was unlawfully taken from the possession of the plaintiff; or

(b) is unlawfully detained by the defendant,

the court, on motion, may make an interim order for recovery of possession of the property.

Damages

(2) A person who obtains possession of personal property by obtaining or setting aside an interim order under subsection (1) is liable for any loss suffered by the person ultimately found to be entitled to possession of the property. R.S.O. 1980, c. 449, s. 2.

“medical
practitioner”
defined

118.—(1) In this section, “medical practitioner” means a person licensed to practise medicine or dentistry in Ontario or any other jurisdiction.

Order for
physical or
mental
examination

(2) Where the physical or mental condition of a party to a proceeding is in question, the court, on motion, may order the party to undergo a physical or mental examination by one or more medical practitioners.

Idem

(3) Where the question of a party’s physical or mental condition is first raised by another party, an order under this section shall not be made unless the allegation is relevant to a material issue in the proceeding and there is good reason to believe that there is substance to the allegation.

Further
examinations

(4) The court may, on motion, order further physical or mental examinations.

Examiner
may ask
questions

(5) Where an order is made under this section, the party examined shall answer the questions of the examining medical practitioner relevant to the examination and the answers given are admissible in evidence. R.S.O. 1980, c. 223, s. 77.

119. A court, on its own initiative or on motion by any person, whether or not a party, may stay any proceeding in the court on such terms as are considered just. R.S.O. 1980, c. 223, s. 18, par. 6.

Stay of
proceedings

120.—(1) Where two or more proceedings are pending in two or more different courts, and the proceedings,

Consolidation
of
proceedings
in different
courts

- (a) have a question of law or fact in common;
- (b) claim relief arising out of the same transaction or occurrence or series of transactions or occurrences; or
- (c) for any other reason ought to be the subject of an order under this section,

an order may, on motion, be made,

- (d) transferring any of the proceedings to another court and requiring the proceedings to be consolidated, or to be heard at the same time, or one immediately after the other; or
- (e) requiring any of the proceedings to be,
 - (i) stayed until after the determination of any other of them, or
 - (ii) asserted by way of counterclaim in any other of them.

(2) A proceeding in the Provincial Court (Civil Division) shall not be,

Transfer
from
Provincial
Court (Civil
Division)

- (a) transferred under clause (1) (d) to the District Court or the Supreme Court; or
- (b) required under subclause (1) (e) (ii) to be asserted by way of counterclaim in a proceeding in the District Court or the Supreme Court,

without the consent of the plaintiff in the proceeding in the Provincial Court (Civil Division).

(3) The motion shall be made,

Motions

- (a) where one or more of the proceedings are in the Supreme Court, to a judge of the Supreme Court;

- (b) where none of the proceedings are in the Supreme Court, to a judge of the District Court.

Directions

(4) An order under subsection (1) may impose such terms and give such directions as are considered just, including dispensing with service of a notice of readiness or listing for trial and abridging the time for placing an action on the trial list.

Transfer

(5) A proceeding that is transferred to another court under clause (1) (d) shall be titled in the court to which it is transferred and shall be continued as if it had been commenced in that court.

Discretion at hearing

(6) Where an order has been made that proceedings be heard either at the same time or one immediately after the other, the judge presiding at the hearing nevertheless has discretion to order otherwise. *New.*

PROCEDURAL MATTERS

Jury trials

121.—(1) In a Supreme Court or District Court action, a party may require that the issues of fact be tried or the damages assessed, or both, by a jury, unless otherwise provided. R.S.O. 1980, c. 223, s. 59 (1).

Trials without jury

(2) Actions in which a claim is made for any of the following kinds of relief shall be heard without a jury:

1. Injunction or mandatory order.
2. Partition or sale of real property.
3. Relief under Part I, II or III of the *Family Law Reform Act* or under the *Children's Law Reform Act*.
4. Dissolution of a partnership or taking of partnership or other accounts.
5. Foreclosure or redemption of a mortgage.
6. Sale and distribution of the proceeds of property subject to any lien or charge.
7. Execution of a trust.
8. Rectification, setting aside or cancellation of a deed or other written instrument.
9. Specific performance of a contract.

R.S.O. 1980,
cc. 152, 68

10. Declaratory relief.

11. Other equitable relief.

12. Relief against a municipality. R.S.O. 1980, c. 223, ss. 58, 60 (4).

(3) On motion, the court may order that issues of fact be tried or damages assessed, or both, without a jury. R.S.O. 1980, c. 223, s. 59 (2). Idem

(4) Where a proceeding is tried with a jury, the jury shall be composed of six persons selected in accordance with the *Juries Act*. *New*. Composition of jury
R.S.O. 1980, c. 226

(5) Where a proceeding is tried with a jury, Verdicts or questions

(a) the judge may require the jury to give a general verdict or to answer specific questions, subject to section 15 of the *Libel and Slander Act*; and R.S.O. 1980, c. 237

(b) judgment may be entered in accordance with the verdict or the answers to the questions. R.S.O. 1980, c. 223, ss. 64, 65 (1, 3).

(6) It is sufficient if five of the jurors agree on the verdict or the answer to a question, and where more than one question is submitted, it is not necessary that the same five jurors agree to every answer. R.S.O. 1980, c. 223, s. 62. Idem

(7) The judge presiding at a trial may discharge a juror on the ground of illness, hardship, partiality or other sufficient cause. Discharge of juror at trial

(8) Where a juror dies or is discharged, the judge may direct that the trial proceed with five jurors, in which case the verdict or answers to questions must be unanimous. R.S.O. 1980, c. 223, s. 63. Continuation with five jurors

(9) Where a proceeding to which subsection 167 (1) of the *Highway Traffic Act* applies is tried with a jury, the judge may direct the jury to specify negligent acts or omissions that caused the damages or injuries in respect of which the proceeding is brought. R.S.O. 1980, c. 223, s. 65 (2). Specifying negligent acts under
R.S.O. 1980, c. 198, s. 167 (1)

(10) In an action for malicious prosecution, the trier of fact shall determine whether or not there was reasonable and probable cause for instituting the prosecution. R.S.O. 1980, c. 223, s. 66. Malicious prosecution

Constitutional questions

122.—(1) Where the constitutional validity or constitutional applicability of an Act of the Parliament of Canada or the Legislature or of a regulation or by-law made thereunder is in question, the Act, regulation or by-law shall not be adjudged to be invalid or inapplicable unless notice has been served on the Attorney General of Canada and the Attorney General of Ontario in accordance with subsection (2).

Form and time of notice

(2) The notice shall be in the form provided for by the Rules of Civil Procedure and, unless the court orders otherwise, shall be served at least ten days before the day on which the question is to be argued.

Notice of appeal

(3) Where the Attorney General of Canada and the Attorney General of Ontario are entitled to notice under subsection (1), they are entitled to notice of any appeal in respect of the constitutional question.

Right of Attorneys General to be heard

(4) Where the Attorney General of Canada or the Attorney General of Ontario is entitled to notice under this section, he or she is entitled to adduce evidence and make submissions to the court in respect of the constitutional question.

Right of Attorneys General to appeal

(5) Where the Attorney General of Canada or the Attorney General of Ontario makes submissions under subsection (4), he or she shall be deemed to be a party to the proceedings for the purpose of any appeal in respect of the constitutional question. R.S.O. 1980, c. 223, s. 35.

Proceeding in wrong forum

123.—(1) Where a proceeding or a step in a proceeding is brought or taken before the wrong court, judge or officer, it may be transferred or adjourned to the proper court, judge or officer.

Continuation of proceeding

(2) A proceeding that is transferred to another court under subsection (1) shall be titled in the court to which it is transferred and shall be continued as if it had been commenced in that court. *New.*

Set off

124.—(1) In an action for payment of a debt, the defendant may, by way of defence, claim the right to set off against the plaintiff's claim a debt owed by the plaintiff to the defendant. R.S.O. 1980, c. 223, s. 134.

Idem

(2) Mutual debts may be set off against each other, notwithstanding that they are of a different nature or that one debt is owed to or by a person in a personal capacity and the other debt is owed by or to the person in a capacity other than personal. R.S.O. 1980, c. 223, s. 135 (1).

(3) Where, on a defence of set off, a larger sum is found to be due from the plaintiff to the defendant than is found to be due from the defendant to the plaintiff, the defendant is entitled to judgment for the balance. R.S.O. 1980, c. 223, s. 136.

Judgment for
defendant

125.—(1) Where a petition or counterpetition for divorce contains particulars of a child under the age of eighteen years who is a child of the marriage within the meaning of section 2 of the *Divorce Act* (Canada), the Official Guardian shall cause an investigation to be made and shall report to the court on all matters relating to the custody, maintenance and education of the child.

Report of
Official
Guardian in
divorce
action
R.S.C. 1970,
c. D-8

(2) The Official Guardian may engage another person to make the investigation.

Agents

(3) An affidavit of the person making the investigation, verifying the report as to facts that are within the person's knowledge and setting out the source of the person's information and belief as to other facts, with the report attached as an exhibit thereto, shall be served on the parties and filed and on being filed shall form part of the evidence at the hearing of the divorce proceeding.

Report as
evidence

(4) Where a party to the proceeding disputes the facts set out in the report, the Official Guardian shall if directed by the court, and may when not so directed, attend the hearing on behalf of the child and cause the person who made the investigation to attend as a witness.

Attendance
on report

(5) The petitioner shall pay such fees for and disbursements arising from an investigation in respect of the petition as are prescribed under the *Administration of Justice Act*.

Payment of
fees

R.S.O. 1980,
c. 6

(6) The Official Guardian shall not serve or file the report of the investigation until the fees and disbursements have been paid, unless the court orders otherwise. R.S.O. 1980, c. 258, s. 1 (2-7).

Idem

(7) The fees and disbursements of the Official Guardian payable under subsection (5) shall be deemed to be costs incurred in the proceeding for the purposes of any order for costs. R.S.O. 1980, c. 258, s. 1 (9).

Costs of
Official
Guardian

126. Rules of court permitting a defendant to make a third party claim apply notwithstanding any agreement that provides that no action may be brought until after judgment against the defendant. *New.*

Agreement
preventing
third party
claim

Agreement
as to place
of hearing

127. Where a party moves to change the place of hearing in a proceeding, an agreement as to the place of hearing is not binding, but may be taken into account. R.S.O. 1980, c. 223, s. 61.

Security

R.S.O. 1980,
c. 192

128. Where a person is required to give security in respect of a proceeding in a court, a bond of a guarantee company to which the *Guarantee Companies Securities Act* applies is sufficient, unless the court orders otherwise. R.S.O. 1980, c. 223, s. 76.

Periodic
payment and
review of
damages

R.S.O. 1980,
c. 152

129. In a proceeding where damages are claimed,

- (a) for personal injuries; or
- (b) under Part V of the *Family Law Reform Act*, for loss resulting from the injury to or death of a person,

the court may, with the consent of all affected parties,

- (c) order the defendant to pay all or part of the award for damages periodically on such terms as the court considers just;
- (d) order that the award for damages be subject to future review and revision in such circumstances and on such terms as the court considers just. *New.*

Assessment
of damages

130. Where damages are to be assessed in respect of,

- (a) a continuing cause of action;
- (b) repeated breaches of a recurring obligation; or
- (c) intermittent breaches of a continuing obligation,

the damages, including damages for breaches occurring after the commencement of the proceeding, shall be assessed down to the time of the assessment. *New.*

Foreign
money
obligations

131.—(1) Subject to subsections (3) and (4), where a person obtains an order to enforce an obligation in a foreign currency, the order shall require payment of an amount in Canadian currency sufficient to purchase the amount of the obligation in the foreign currency at a chartered bank in Ontario at the close of business on the first day on which the bank quotes a Canadian dollar rate for purchase of the foreign

currency before the day payment of the obligation is received by the creditor.

(2) Where more than one payment is made under an order referred to in subsection (1), the rate of conversion shall be the rate determined as provided in subsection (1) for each payment.

Multiple payments

(3) Subject to subsection (4), where, in a proceeding to enforce an obligation in a foreign currency, the court is satisfied that conversion of the amount of the obligation to Canadian currency as provided in subsection (1) would be inequitable to any party, the order may require payment of an amount in Canadian currency sufficient to purchase the amount of the obligation in the foreign currency at a chartered bank in Ontario on such other day as the court considers equitable in the circumstances.

Discretion of court

(4) Where an obligation enforceable in Ontario provides for a manner of conversion to Canadian currency of an amount in a foreign currency, the court shall give effect to the manner of conversion in the obligation.

Other obligations that include conversion

(5) Where a writ of seizure and sale or notice of garnishment is issued under an order to enforce an obligation in a foreign currency, the day the sheriff, bailiff or clerk of the court receives money under the writ or notice shall be deemed, for the purposes of this section and any obligation referred to in subsection (4), to be the day payment is received by the creditor. *New.*

Enforcement by seizure or garnishment

132.—(1) Where an action for an accounting could have been brought against a person, the action may be brought against his or her personal representative.

Actions for accounting

(2) An action for an accounting may be brought by a joint tenant or tenant in common, or his or her personal representative, against a co-tenant for receiving more than the co-tenant's just share. R.S.O. 1980, c. 223, s. 139.

Idem

133.—(1) In this section,

Interpretation

(a) “chief judge” means the person having authority to assign duties to the judge;

(b) “judge” includes a local judge or master.

(2) A judge may, within ninety days of,

(a) reaching retirement age;

Decision after retirement, etc.

(b) resigning; or

(c) being appointed to another court,

give a decision or participate in the giving of a decision in any matter previously tried or heard before the judge.

Inability to
give decision;
panel of
judges

(3) Where a judge has commenced a hearing together with other judges and,

(a) dies before the decision is given;

(b) is for any reason unable to participate in the giving of the decision; or

(c) does not participate in the giving of the decision under subsection (2),

the remaining judges may complete the hearing and give the decision of the court but, if the remaining judges are equally divided, a party may make a motion to the chief judge for an order that the matter be reheard. R.S.O. 1980, c. 223, s. 11 (1-3).

Inability to
give decision;
sitting alone

(4) Where a judge has commenced hearing a matter sitting alone and,

(a) dies without giving a decision;

(b) is for any reason unable to make a decision; or

(c) does not give a decision under subsection (2),

a party may make a motion to the chief judge for an order that the matter be reheard. R.S.O. 1980, c. 100, s. 30 (1).

Failure to
give decision

(5) Where a judge has heard a matter and fails to give a decision,

(a) in the case of a judgment, within six months; or

(b) in any other case, within three months,

the chief judge may extend the time in which the decision may be given and, if necessary, relieve the judge of his or her other duties until the decision is given.

Continued
failure

(6) Where time has been extended under subsection (5) but the judge fails to give the decision within that time, unless the chief judge grants a further extension,

- (a) the chief judge shall report the failure and the surrounding circumstances to the appropriate judicial council; and
- (b) a party may make a motion to the chief judge for an order that the matter be reheard. *New.*

(7) Where an order is made under subsection (3), (4) or (6) Rehearing
for the rehearing of a matter, the chief judge may,

- (a) dispose of the costs of the original hearing or refer the question of those costs to the judge or judges presiding at the rehearing;
- (b) direct that the rehearing be conducted on the transcript of evidence taken at the original hearing, subject to the discretion of the court at the rehearing to recall a witness or require further evidence; and
- (c) give such other directions as are considered just. R.S.O. 1980, c. 100, s. 30 (2-6).

134. No document shall be served and no order shall be executed on Sunday, except with leave of the court. R.S.O. 1980, c. 223, s. 132. Service on Sunday

LANGUAGE

135.—(1) The official languages of the courts of Ontario are English and French. *New.* Official languages of the courts

(2) Except as otherwise provided with respect to the use of the French language, Proceedings in English unless otherwise provided

- (a) hearings in courts shall be conducted in the English language and evidence adduced in a language other than English shall be interpreted into the English language; and
- (b) documents filed in courts shall be in the English language or shall be accompanied by a translation of the document into the English language certified by affidavit of the translator. R.S.O. 1980, c. 223, s. 130 (1).

136.—(1) In this section, “designated court” means, “designated court” defined

- (a) a court sitting in,
 - (i) the county of Essex or Renfrew,

- (ii) the judicial district of Niagara South, Ottawa-Carleton or York,
- (iii) the territorial district of Algoma, Cochrane, Nipissing, Sudbury or Timiskaming,
- (iv) the united counties of Prescott and Russell or the united counties of Stormont, Dundas and Glengarry;

- (b) a court designated by order of the Lieutenant Governor in Council, sitting in a place that is not in a county or district mentioned in clause (a) and is designated in the order. R.S.O. 1980, c. 223, s. 130 (2, 3); 1983, c. 3, s. 1 (1).

Non-jury trial
before
bilingual
judge

- (2) In a proceeding in a designated court without a jury, a party who speaks the French language has the right to require that the hearing be conducted before a judge who speaks both the English and French languages.

Jury trial
before
bilingual
judge and
jury

- (3) In a proceeding in a designated court referred to in clause (1) (a) that is to be heard by a judge and jury, a party who speaks the French language has the right to require that the hearing be conducted before a judge and jurors who speak both the English and French languages.

Proceedings
in English
and French

- (4) Where a right under subsection (2) or (3) is exercised,
 - (a) all evidence adduced and submissions made at the hearing in the proceeding in the English or French language shall be received, recorded and transcribed in the language in which it is given;
 - (b) any other part of the hearing may be conducted in the French language if, in the opinion of the presiding judge, the hearing can be so conducted;
 - (c) any oral evidence adduced at an examination before or after the hearing in the proceeding in the English or French language shall be received, recorded and transcribed in the language in which it is given;
 - (d) with the consent of all the parties or by order of the court, clauses (a) and (b) apply to any other step in the proceeding;
 - (e) with the consent of all the parties, pleadings and other documents filed in the proceeding may be in the French language only;

- (f) the reasons for the decision in the proceeding may be in either the English or French language; and
- (g) on the request of a party or counsel who speaks the English or French language, but not both, the court shall provide,
 - (i) interpretation of anything given orally in the other language under clause (a), (b), (c) or (d), and
 - (ii) translation of documents in the other language under clause (a), (d) or (f), unless the court considers that the ends of justice do not require the expense of translation,

into the language spoken by the party or counsel.
R.S.O. 1980, c. 223, s. 130 (6, 7).

(5) Where an appeal is taken in a proceeding to which sub- Appeals
section (4) applies,

- (a) a party who speaks the French language has the right to require the hearing of the appeal to be conducted before a judge or judges who speak both the English and French languages, in which case subsection (4) applies, with necessary modifications, to the hearing of the appeal; and
- (b) the court whose decision is appealed shall provide a translation into the English or French language, at the request of a party or counsel who speaks only one of these languages, of any part of the transcript of the hearing that is in the other language.

(6) A document filed by a party before the hearing in a proceeding in the Provincial Court (Family Division) or the Provincial Court (Civil Division) where the court is a designated court may be in the French language only. R.S.O. 1980, c. 223, s. 130 (8); 1983, c. 3, s. 1 (2). Court documents

(7) A process issued in or giving rise to a criminal proceeding or a proceeding in the Provincial Offences Court where it is a designated court may be filed in the court in the French language only. Process

(8) A document or process referred to in subsection (6) or (7) that is filed in the English or French language only shall be translated by the court into the other language on the request of a party. Translation

Interpretation
in
undesignated
courts

(9) Where, at a hearing in a court that is not a designated court or at a hearing in a designated court to which subsection (4) does not apply, a party acting in person makes submissions to the court in the French language or a witness gives oral evidence in the French language, the court shall provide an interpreter to translate the submissions or evidence into the English language.

Corporations,
etc.

(10) A corporation, partnership or sole proprietorship may claim the rights under this section in the same manner as a person who speaks either the English or French language, unless the court orders otherwise.

Regulations

(11) The Lieutenant Governor in Council may make regulations prescribing procedures for the purpose of this section. *New.*

INTEREST AND COSTS

Interpretation

137.—(1) In this section and in sections 138 and 139,

- (a) “bank rate” means the bank rate established by the Bank of Canada as the minimum rate at which the Bank of Canada makes short-term advances to the chartered banks;
- (b) “date of the order” means the date the order is made, notwithstanding that the order is not entered or enforceable on that date, or that the order is varied on appeal, and in the case of an order directing a reference, the date the report on the reference is confirmed;
- (c) “postjudgment interest rate” means the bank rate at the end of the first day of the last month of the quarter preceding the quarter in which the date of the order falls, rounded to the next higher whole number where the bank rate includes a fraction, plus 1 per cent;
- (d) “prejudgment interest rate” means the bank rate at the end of the first day of the last month of the quarter preceding the quarter in which the proceeding was commenced, rounded to the next higher whole number where the bank rate includes a fraction, plus 1 per cent;
- (e) “quarter” means the three-month period ending with the 31st day of March, 30th day of June, 30th

day of September or 31st day of December.
R.S.O. 1980, c. 223, s. 36 (1, 2).

(2) After the first day of the last month of each quarter, the Registrar of the Supreme Court shall forthwith,

Calculation
and
publication of
interest

- (a) determine the prejudgment and postjudgment interest rate for the next quarter; and
- (b) publish in *The Ontario Gazette* a table showing the rate determined under clause (a) for the next quarter and for all the previous quarters during the preceding ten years. *New.*

138.—(1) A person who is entitled to an order for the payment of money is entitled to claim and have included in the order an award of interest thereon at the prejudgment interest rate, calculated,

Prejudgment
interest

- (a) where the order is made on a liquidated claim, from the date the cause of action arose to the date of the order; or
- (b) where the order is made on an unliquidated claim, from the date the person entitled gave notice in writing of his claim to the person liable therefor to the date of the order.

(2) Where the order includes an amount for special damages, the interest calculated under subsection (1) shall be calculated on the balance of special damages incurred as totalled at the end of each six-month period following the notice in writing referred to in clause (1) (b) and at the date of the order.

Special
damages

(3) Interest shall not be awarded under subsection (1),

Exclusion

- (a) on exemplary or punitive damages;
- (b) on interest accruing under this section;
- (c) on an award of costs in the proceeding;
- (d) on that part of the order that represents pecuniary loss arising after the date of the order and that is identified by a finding of the court;
- (e) where the order is made on consent, except by consent of the debtor; or

- (f) where interest is payable by a right other than under this section. R.S.O. 1980, c. 223, s. 36 (3-5).

Application

(4) Where a proceeding is commenced before this section comes into force, this section does not apply and section 36 of the *Judicature Act*, being chapter 223 of the Revised Statutes of Ontario, 1980, continues to apply, notwithstanding section 187.

Postjudgment interest

139.—(1) Money owing under an order, including costs to be assessed or costs fixed by the court, bears interest at the postjudgment interest rate, calculated from the date of the order. R.S.O. 1980, c. 223, s. 37 (1).

Interest on periodic payments

(2) Where an order provides for periodic payments, each payment in default shall bear interest only from the date of default.

Interest on orders originating outside Ontario

(3) Where an order is based on an order given outside Ontario or an order of a court outside Ontario is filed with a court in Ontario for the purpose of enforcement, money owing under the order bears interest at the rate, if any, applicable to the order given outside Ontario by the law of the place where it was given.

Costs assessed without order

(4) Where costs are assessed without an order, the costs bear interest at the postjudgment interest rate in the same manner as if an order were made for the payment of costs on the date the person to whom the costs are payable became entitled to the costs.

Other provision for interest

(5) Interest shall not be awarded under this section where interest is payable by a right other than under this section. *New.*

Application

(6) Where an order for the payment of money is made before this section comes into force, this section does not apply and section 37 of the *Judicature Act*, being chapter 223 of the Revised Statutes of Ontario, 1980, continues to apply, notwithstanding section 187.

Discretion of court

140. The court may, where it considers it just to do so, having regard to changes in market interest rates, the circumstances of the case, the conduct of the proceeding or any other relevant consideration,

- (a) disallow interest under section 138 or 139;
- (b) allow interest at a rate higher or lower than that provided in section 138 or 139;

- (c) allow interest for a period other than that provided in section 138 or 139,

in respect of the whole or any part of the amount on which interest is payable under section 138 or 139. R.S.O. 1980, c. 223, ss. 36 (6), 37 (2).

141.—(1) Subject to the provisions of an Act or rules of court, the costs of a proceeding or a step in a proceeding are in the discretion of the court, and the court may determine by whom and to what extent the costs shall be paid. R.S.O. 1980, c. 223, s. 80 (1). Costs

(2) In a proceeding to which Her Majesty is a party, costs awarded to Her Majesty shall not be disallowed or reduced on assessment merely because they relate to a barrister or solicitor who is a salaried officer of the Crown, and costs recovered on behalf of Her Majesty shall be paid into the Consolidated Revenue Fund. R.S.O. 1980, c. 223, s. 80 (5). Crown costs

APPEALS

142. A judge shall not sit as a member of a court hearing an appeal from his or her own decision. R.S.O. 1980, c. 223, ss. 42 (6), 46 (5). Judge not to hear appeal from own decision

143. No appeal lies without leave of the court to which the appeal is to be taken, Leave to appeal required

- (a) from an order made with the consent of the parties; or
- (b) where the appeal is only as to costs that are in the discretion of the court that made the order for costs on the ground that the discretion was wrongly exercised. R.S.O. 1980, c. 223, ss. 27, 80 (4).

144.—(1) Unless otherwise provided, a court to which an appeal is taken may, Powers on appeal

- (a) make any order or decision that ought to or could have been made by the court or tribunal appealed from;
- (b) order a new trial;
- (c) make any other order or decision that is considered just. R.S.O. 1980, c. 223, s. 29 (1).

Interim
orders

(2) On motion, a court to which an appeal is taken may make any interim order that is considered just to prevent prejudice to a party pending the appeal. *New.*

Power to
quash

(3) On motion, a court to which an appeal is taken may, in a proper case, quash the appeal. R.S.O. 1980, c. 223, s. 13 (1).

Determin-
ation of fact

(4) Unless otherwise provided, a court to which an appeal is taken may, in a proper case,

(a) draw inferences of fact from the evidence, except that no inference shall be drawn that is inconsistent with a finding that has not been set aside;

(b) receive further evidence by affidavit, transcript of oral examination, oral examination before the court or in such other manner as the court directs; and

(c) direct a reference or the trial of an issue,

to enable the court to determine the appeal.

Scope of
decisions

(5) The powers conferred by this section may be exercised notwithstanding that the appeal is as to part only of an order or decision, and may be exercised in favour of a party even though the party did not appeal. R.S.O. 1980, c. 223, s. 29 (2, 3).

New trial

(6) A court to which an appeal is taken shall not direct a new trial unless some substantial wrong or miscarriage of justice has occurred.

Idem

(7) Where some substantial wrong or miscarriage of justice has occurred but it affects only part of an order or decision or some of the parties, a new trial may be ordered in respect of only that part or those parties. R.S.O. 1980, c. 223, ss. 30, 31.

PUBLIC ACCESS

Public
hearings

145.—(1) Subject to subsection (2) and rules of court, all court hearings shall be open to the public. R.S.O. 1980, c. 223, s. 117.

Exception

(2) The court may order the public to be excluded from a hearing where the possibility of serious harm or injustice to any person justifies a departure from the general principle that court hearings should be open to the public.

(3) Where a proceeding is heard in the absence of the public, disclosure of information relating to the proceeding is not contempt of court unless the court expressly prohibited the disclosure of the information. *New.*

Disclosure of
information

146.—(1) Subject to subsections (2) and (3), no person shall,

Prohibition
against
photography,
etc., at court
hearing

(a) take or attempt to take a photograph, motion picture, audio recording or other record capable of producing visual or aural representations by electronic means or otherwise,

(i) at a court hearing,

(ii) of any person entering or leaving the room in which a court hearing is to be or has been convened, or

(iii) of any person in the building in which a court hearing is to be or has been convened where there is reasonable ground for believing that the person is there for the purpose of attending or leaving the hearing; or

(b) publish, broadcast, reproduce or otherwise disseminate a photograph, motion picture, audio recording or record taken in contravention of clause (a).

(2) Nothing in subsection (1),

Exceptions

(a) prohibits a person from unobtrusively making handwritten notes or sketches at a court hearing; or

(b) prohibits a solicitor or party acting in person from unobtrusively making an audio recording at a court hearing that is used only for the purposes of the litigation as a substitute for notes.

(3) Subsection (1) does not apply to a photograph, motion picture, audio recording or record made with authorization of the judge,

Exceptions

(a) where required for the presentation of evidence or the making of a record or for any other purpose of the court hearing;

(b) in connection with any investitive, naturalization, ceremonial or other similar proceeding; or

- (c) with the consent of the parties and witnesses, for such educational or instructional purposes as the judge approves.

Offence

(4) Every person who contravenes this section is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than six months, or to both. R.S.O. 1980, c. 223, s. 67.

Documents
public

147.—(1) On payment of the prescribed fee, a person is entitled to see any document filed in a civil proceeding in a court, unless an Act or an order of the court provides otherwise. R.S.O. 1980, c. 223, s. 129 (4).

Sealing
documents

(2) A court may order that any document filed in a civil proceeding before it be treated as confidential, sealed and not form part of the public record. *New.*

Court lists
public

(3) On payment of the prescribed fee, a person is entitled to see any list maintained by a court of civil proceedings commenced or judgments entered.

Copies

(4) On payment of the prescribed fee, a person is entitled to a copy of any document he or she is entitled to see. R.S.O. 1980, c. 223, s. 129 (1, 3).

MISCELLANEOUS

Multiplicity
of
proceedings

148. As far as possible, multiplicity of legal proceedings shall be avoided. R.S.O. 1980, c. 223, s. 18, par. 8.

Joint liability
not affected
by judgment
or release

149.—(1) Where two or more persons are jointly liable in respect of the same cause of action, a judgment against or release of one of them does not preclude judgment against any other in the same or a separate proceeding.

Two
proceedings
in respect of
same damage

(2) Where a person who has suffered damage brings two or more proceedings in respect of the damage, the person is not entitled to costs in any of the proceedings, except the first proceeding in which judgment is obtained, unless the court is of the opinion that there were reasonable grounds for bringing more than one proceeding. *New.*

Vexatious
proceedings

150.—(1) Where a judge of the Supreme Court is satisfied, on application, that a person has persistently and without reasonable grounds,

- (a) instituted vexatious proceedings in any court; or

- (b) conducted a proceeding in any court in a vexatious manner,

the judge may order that,

- (c) no further proceeding be instituted by the person in any court; or
- (d) a proceeding previously instituted by the person in any court not be continued,

except by leave of a judge of the Supreme Court.

(2) An application under subsection (1) shall be made only with the consent of the Attorney General, and the Attorney General is entitled to be heard on the application. R.S.O. 1980, c. 523, s. 1 (1, 2). Attorney General

(3) Where a person against whom an order under subsection (1) has been made seeks leave to institute or continue a proceeding, he or she shall do so by way of an application in the Supreme Court. Application for leave to proceed

(4) Where an application for leave is made under subsection (3), Leave to proceed

- (a) leave shall be granted only if the court is satisfied that the proceeding sought to be instituted or continued is not an abuse of process and that there are reasonable grounds for the proceeding;
- (b) the person making the application for leave may seek the rescission of the order made under subsection (1) but may not seek any other relief on the application;
- (c) the court may rescind the order made under subsection (1);
- (d) the Attorney General is entitled to be heard on the application; and
- (e) no appeal lies from a refusal to grant relief to the applicant.

(5) Nothing in this section limits the authority of a court to stay or dismiss a proceeding as an abuse of process or on any other ground. *New.* Abuse of process

Protection
for acting
under court
order

151. A person is not liable for any act done in good faith in accordance with an order or process of a court in Ontario. R.S.O. 1980, c. 223, s. 142.

Enforcement
of bonds and
recognizances

152.—(1) A bond or recognizance arising out of a civil proceeding may be enforced in the same manner as an order for the payment of money by leave of a judge on motion by the Attorney General or any other person entitled to enforcement.

Enforcement
of fines for
contempt

(2) A fine for contempt of court may be enforced by the Attorney General in the same manner as an order for the payment of money or in any other manner permitted by law.

Enforcement
by sheriff

(3) The sheriff to whom a writ obtained under subsection (1) or (2) is directed shall proceed immediately to carry out the writ without a direction to enforce. R.S.O. 1980, c. 144.

Consul as
official
representative

153. Where a person who is ordinarily resident in a foreign country is entitled to money or property that is in the hands of a court or an executor or administrator, and if the foreign country has a consul in Canada who is authorized to act as the person's official representative, the money or property may be paid or delivered to the consul. R.S.O. 1980, c. 223, s. 113.

Seal of court

154.—(1) The courts shall have such seals as are approved by the Attorney General.

Idem

(2) Every document issued out of a court in a civil proceeding shall bear the seal of the court. R.S.O. 1980, c. 223, ss. 12, 94.

Jurisdiction
of Federal
Court

155. The Federal Court of Canada has jurisdiction,

- (a) in controversies between Canada and Ontario;
- (b) in controversies between Ontario and any other province in which an enactment similar to this section is in force,

R.S.C. 1970
(2nd Supp.),
c. 10

in accordance with section 19 of the *Federal Court Act* (Canada). R.S.O. 1980, c. 125, s. 1.

PART IX

TRANSITIONAL PROVISIONS

156.—(1) This Act applies to all proceedings, whether commenced before or after this Act comes into force, subject to subsections (2) and (3) and except as otherwise provided.

Application
to all
proceedings

(2) Where a notice of appeal is delivered before this Act comes into force, the appeal shall be heard and determined by the court that had jurisdiction over the appeal before this Act comes into force.

Exception

(3) Where a proceeding is commenced before this Act comes into force, on motion, the court in which the proceeding was commenced may order, subject to such terms as are considered just and subject to variation by further order, that the proceeding or a step in the proceeding be conducted under the Acts and rules of court that governed the matter immediately before this Act comes into force or may make any other order that is considered just.

Exception

157.—(1) A proceeding commenced in a county or district court, a county or district court judge's criminal court or a court of general sessions of the peace and pending when Part II comes into force is continued in the District Court.

Continuation
of county
court
proceedings

(2) A reference in an Act or regulation to a county or district court or to a judge or the Chief Judge or Associate Chief Judge thereof shall be deemed to be a reference to the District Court or a judge, the Chief Judge or Associate Chief Judge thereof, respectively.

References to
county and
district courts

158.—(1) A proceeding commenced in a provincial court (criminal division), a provincial court (family division), a provincial offences court or a small claims court and pending when Part IV comes into force is continued in the Provincial Court (Criminal Division), the Provincial Court (Family Division), the Provincial Offences Court or the Provincial Court (Civil Division), respectively.

Continuation
of
proceedings
in provincial
courts

(2) A reference in an Act or regulation to a provincial court (criminal division), a provincial court (family division), a provincial offences court or a small claims court shall be deemed to be a reference to the Provincial Court (Criminal Division), the Provincial Court (Family Division), the Provincial Offences Court or the Provincial Court (Civil Division), respectively.

References to
provincial
courts

Reference to
territorial
jurisdiction

159. Where by an Act or regulation, jurisdiction is conferred on a particular county or district court, provincial court, provincial offences court or small claims court, the jurisdiction shall be deemed to be conferred on the District Court, Provincial Court, Provincial Offences Court or Provincial Court (Civil Division) sitting in the county or district of the court named.

PART X

COMPLEMENTARY AMENDMENTS TO STATUTE LAW

Changes in
terminology

160. A reference in any Act, rule or regulation, or order or other court process to a term set out in column 1 of the Table, or any form thereof, shall be deemed to refer to the corresponding term set out opposite thereto in column 2.

TABLE

<i>Column 1</i>	<i>Column 2</i>
1. administrator <i>ad litem</i>	1. litigation administrator
2. certificate of <i>lis pendens</i>	2. certificate of pending litigation
3. conduct money	3. attendance money
4. guardian <i>ad litem</i>	4. litigation guardian
5. next friend	5. litigation guardian
6. originating motion	6. application
7. originating notice	7. notice of application
8. praecipe	8. requisition
9. Rules of Practice and Procedure of the Supreme Court of Ontario made by the Rules Committee	9. Rules of Civil Procedure
10. special examiner	10. official examiner
11. taxation of costs	11. assessment of costs
12. taxing officer	12. assessment officer
13. writ of <i>fiery facias</i>	13. writ of seizure and sale
14. writ of summons	14. statement of claim or notice of action

161. Subsection 31 (1) of the *Arbitrations Act*, being chapter 25 of the Revised Statutes of Ontario, 1980, is repealed.

162. The *Bailiffs Act*, being chapter 37 of the Revised Statutes of Ontario, 1980, is amended by striking out "clerk of the

peace” where it occurs in sections 6, 7 and 12 and inserting in lieu thereof in each instance “sheriff”.

163. Section 68 of the *Children’s Law Reform Act*, being chapter 68 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1982, chapter 20, section 1, is repealed.

164. The *Constitutional Questions Act*, being chapter 86 of the Revised Statutes of Ontario, 1980, is repealed.

165.—(1) Clause 51 (2) (a) of the *Construction Lien Act*, 1983, being chapter 6, is amended by striking out “having jurisdiction” in the first line and inserting in lieu thereof “sitting”.

(2) Clauses 51 (2) (b) and (c) of the said Act are repealed and the following substituted therefor:

- (b) on consent of the persons to whom a notice of trial must be given and on the order of a local judge sitting in the county or district referred to in clause (a), by a local judge sitting in another county or district, but not in the Judicial District of York; or
- (c) where upon motion a local judge sitting in the county or district referred to in clause (a) so orders, by a judge of the court at the regular sittings of the court for the trial of actions in that county or district.

(3) Clause 52 (1) (b) of the said Act is repealed and the following substituted therefor:

- (b) a master assigned to the county or district in which the premises or part thereof are situate or a commissioner appointed under section 24 of the *Courts of Justice Act*, 1984, where the premises are situate outside the Judicial District of York.

1984, c. 11

(4) Clause 52 (1) (c) of the said Act is amended by striking out “the” in the first line and inserting in lieu thereof “a”.

(5) Subsection 52 (2) of the said Act is amended by striking out “appointed local master” in the first line and inserting in lieu thereof “commissioner”.

(6) Clause 52 (2) (b) of the said Act is amended by striking out “appointed local master” in the second line and inserting in lieu thereof “commissioner”.

(7) Clause 52 (2) (c) of the said Act is amended by striking out “originating”.

(8) Subsection 52 (3) of the said Act is amended by striking out “appointed local master” in the second line and inserting in lieu thereof “commissioner”.

(9) Section 53 of the said Act is amended by striking out “an appointed local master” in the second line and inserting in lieu thereof “commissioner”.

(10) Section 54 of the said Act is amended by striking out “an appointed local master” in the first and second lines and inserting in lieu thereof “commissioner”.

(11) Subsection 55 (1) of the said Act is amended by striking out “filing” in the first line and inserting in lieu thereof “issuing” and by striking out “registrar or” in the second line.

(12) Subsection 55 (2) of the said Act is amended by striking out “filed” in the second line and inserting in lieu thereof “issued”.

(13) Subsection 56 (2) of the said Act is repealed and the following substituted therefor:

Noting in
default

(2) Where a person against whom a claim is made in a statement of claim, counterclaim, crossclaim or third party claim defaults in the delivery of a defence to that claim, the person against whom the claim is made may be noted in default.

(14) Subsection 56 (3) of the said Act is amended by striking out “pleadings have been noted closed against a defendant or third party” in the first and second lines and inserting in lieu thereof “a defendant or third party has been noted in default”.

(15) Subsection 56 (4) of the said Act is amended by striking out “against whom pleadings have been noted closed” in the second and third lines and inserting in lieu thereof “who has been noted in default” and by striking out “proceeding in respect of” in the seventh line and inserting in lieu thereof “step in”.

(16) Subsection 56 (5) of the said Act is repealed.

(17) Section 58 of the said Act is amended by striking out “proceedings” where it occurs in the first line and in the third

line of paragraph 3 and inserting in lieu thereof “claims” in each instance.

(18) Clause 60 (1) (b) of the said Act is repealed and the following substituted therefor:

- (b) a local judge may refer to a master assigned to the county or district in which the trial is to take place or a commissioner appointed under section 24 of the *Courts of Justice Act, 1984*.

1984, c. 11

(19) Subsection 60 (1) of the said Act is amended by striking out “under section 71 of the *Judicature Act*” in the ninth line.

(20) Clause 60 (2) (b) of the said Act is repealed and the following substituted therefor:

- (b) a local judge may direct a reference to a master assigned to the county or district in which the trial is to take place or to a commissioner.

(21) Subsection 60 (2) of the said Act is amended by striking out “under section 70 or 71 of the *Judicature Act*” in the sixth line.

(22) Subsection 60 (3) of the said Act is amended by striking out “local master” in the second line and inserting in lieu thereof “commissioner”.

(23) Subsection 63 (6) of the said Act is repealed and the following substituted therefor:

(6) Rule 50 of the Rules of Civil Procedure does not apply to an action under this Act.

Non-appli-
cation of
Rule 50

(24) Clause 64 (1) (b) of the said Act is amended by striking out “an appointed local master of the court” in the second and third lines and inserting in lieu thereof “commissioner”.

(25) Subsection 64 (2) of the said Act is amended by striking out “proceedings” in the third line and inserting in lieu thereof “action”.

(26) Subsection 64 (3) of the said Act is amended by striking out “an appointed local master” in the first line and inserting in lieu thereof “commissioner” and by striking out “appeal” in the fourth line and inserting in lieu thereof “a motion to oppose confirmation of the report”.

(27) Subsection 69 (2) of the said Act is amended by striking out “proceedings” where it occurs in the first line and in the third line and inserting in lieu thereof “steps” in each instance.

(28) Subsection 69 (6) of the said Act is amended by striking out “interlocutory” in the fourth line.

(29) Subsections 73 (1) and (2) of the said Act are repealed and the following substituted therefor:

Appeal to
Divisional
Court

(1) Subject to subsection (3), an appeal lies to the Divisional Court from a judgment or an order on a motion to oppose confirmation of a report under this Act.

Notice of
appeal

(2) A party wishing to appeal shall file and serve his notice of appeal within fifteen days of the date of the judgment or order, but the time for filing or serving the notice of appeal may be extended by the written consent of all parties, or by a single judge of the Divisional Court where an appropriate case is made out for doing so.

(30) Clause 73 (3) (a) of the said Act is amended by inserting after “or” in the first line “an order on a motion to oppose confirmation of”.

(31) Subsection 88 (1) of the said Act is amended by striking out “an appointed local master” in the eighteenth and nineteenth lines and inserting in lieu thereof “commissioner”.

(32) Subsection 88 (3) of the said Act is repealed.

(33) Subsection 89 (3) of the said Act is repealed.

166. Subsection 3 (6) of the *Coroners Act*, being chapter 93 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Crown
attorney
notified of
appointment

(6) A copy of the order appointing a coroner shall be sent by the Minister to the Crown attorney of any county or district in which the coroner will ordinarily act.

167. The *County Court Judges' Criminal Courts Act*, being chapter 99 of the Revised Statutes of Ontario, 1980, is repealed.

168. The *County Courts Act*, being chapter 100 of the Revised Statutes of Ontario, 1980 and the *County Courts Amendment Act, 1981*, being chapter 24, are repealed.

169. The *County Judges Act*, being chapter 101 of the Revised Statutes of Ontario, 1980, is repealed.

170.—(1) Section 6 of the *Crown Attorneys Act*, being chapter 107 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subclauses 12 (b) (ii) and (iii) of the said Act are repealed and the following substituted therefor:

(ii) at sittings of the District Court, and

.

(3) Clause 12 (i) of the said Act is repealed.

(4) Section 14 of the said Act is amended by striking out “and clerk of the peace” in the second and third lines.

(5) Section 15 of the said Act is amended by striking out “and clerk of the peace” in the first line.

171. Section 19 of the *Developmental Services Act*, being chapter 118 of the Revised Statutes of Ontario, 1980, is repealed.

172. Subsection 2 (3) of the *Disorderly Houses Act*, being chapter 120 of the Revised Statutes of Ontario, 1980, is amended by striking out “clerk of the peace” in the second line and inserting in lieu thereof “local registrar of the District Court”.

173. The *Dominion Courts Act*, being chapter 125 of the Revised Statutes of Ontario, 1980, is repealed.

174. Section 26 of the *Estates Administration Act*, being chapter 143 of the Revised Statutes of Ontario, 1980, is repealed.

175. The *Estreats Act*, being chapter 144 of the Revised Statutes of Ontario, 1980, is repealed.

176.—(1) Section 48 of the *Evidence Act*, being chapter 145 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

(2) An examination or deposition received or read in evidence under subsection (1) shall be presumed to represent accurately the evidence of the party or witness, unless there is good reason to doubt its accuracy. Presumption

(2) Subsection 60 (1) of the said Act is amended by inserting after “process” in the fifth line “for a purpose for which a letter of request could be issued under the Rules of Civil Procedure”.

177.—(1) The *Execution Act*, being chapter 146 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following sections:

Execution of
writ of
seizure and
sale

19a.—(1) A sheriff acting under a writ of seizure and sale, a writ of delivery or a writ of sequestration may use reasonable force to enter land and premises other than a dwelling where he believes, on reasonable and probable grounds, that there is property liable to be taken in execution under the writ and may use reasonable force to execute the writ.

Idem,
dwelling

(2) A sheriff acting under a writ of seizure and sale, a writ of delivery or a writ of sequestration in respect of property on premises that is used as a dwelling shall not use force to enter the dwelling or execute the writ except under the authority of an order of the court by which the writ was issued, and the court may make the order where in the opinion of the court there is reasonable and probable grounds to believe that there is property on the premises that is liable to be taken in execution under the writ.

Execution of
writ of
possession

19b.—(1) A sheriff acting under a writ of possession may use reasonable force to enter and take possession of the land and premises referred to in the writ.

Idem

(2) In executing a writ of possession it is not necessary to remove personal property from the land and premises.

(2) Section 25 of the said Act is repealed.

(3) The said Act is further amended by adding thereto the following section:

Execution
against
partner

29a. Under an execution against a partner in his personal capacity, partnership assets shall not be taken in execution, but an order may be made appointing a receiver of the partner's share of profits whether already declared or accruing and of any other money that may be coming to him in respect of the partnership.

178. The *Extra-Judicial Services Act*, being chapter 149 of the Revised Statutes of Ontario, 1980, is repealed.

179.—(1) Subsection 2 (6) of the *Family Law Reform Act*, being chapter 152 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Clause 25 (1) (b) of the said Act is repealed and the following substituted therefor:

- (b) it appears to the court that the respondent resides in another county or district; and
-

(3) Subsection 25 (6) of the said Act is repealed and the following substituted therefor:

(6) Where the respondent appears before the court and the court, having regard to all the evidence, is of the opinion that the order ought not to be confirmed, the court shall remit the case to the court sitting in the county or district where the order was made together with a statement of the reasons for so doing, and in that event the court sitting in the county or district where the order was made may dispose of the application in such manner as it considers proper.

Where order
not
confirmed

(4) Section 30 of the said Act is repealed.

180. Section 3 of the *Fines and Forfeitures Act*, being chapter 162 of the Revised Statutes of Ontario, 1980, is amended by striking out “court of general sessions of the peace” in the fifth and sixth lines and inserting in lieu thereof “District Court”.

181. The *General Sessions Act*, being chapter 187 of the Revised Statutes of Ontario, 1980, is repealed.

182. Subsection 1 (1) of the *Habeas Corpus Act*, being chapter 193 of the Revised Statutes of Ontario, 1980, is amended by striking out “court of general sessions of the peace” in the third and fourth lines and inserting in lieu thereof “District Court”.

183. Subsection 180 (3) of the *Highway Traffic Act*, being chapter 198 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(3) Notwithstanding subsections (1) and (2), when an action is brought within the time limited by this Act for the recovery of damages occasioned by a motor vehicle and a counterclaim, crossclaim or third or subsequent party claim is commenced by a defendant in respect of damages occasioned in the same

Action for
damages

accident, the lapse of time herein limited is not a bar to the counterclaim, crossclaim or third or subsequent party claim.

184.—(1) The *Interpretation Act*, being chapter 219 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

DEATH OF SOVEREIGN

Death of
Sovereign

19a. Where a reigning Sovereign dies, no rule or construction of law shall be applied so as to prevent the continuation of any matter under the successor to the Crown as if the death had not occurred.

(2) Sections 28 and 29 of the said Act are repealed.

(3) Paragraph 31 of section 30 of the said Act is amended by striking out “*Judicature Act*” in the second line and inserting in lieu thereof “*Courts of Justice Act, 1984*”.

(4) Section 31 of the said Act is amended by striking out “*Judicature Act*” in the first line and inserting in lieu thereof “*Courts of Justice Act, 1984*”.

185. Clause 1 (c) of the *Interprovincial Subpoenas Act*, being chapter 220 of the Revised Statutes of Ontario, 1980, is amended by striking out “or hearing” in the fourth line and inserting in lieu thereof “hearing or examination”.

186. The *Judges’ Orders Enforcement Act*, being chapter 222 of the Revised Statutes of Ontario, 1980, is repealed.

187.—(1) The *Judicature Act*, being chapter 223 of the Revised Statutes of Ontario, 1980, the *Judicature Amendment Act, 1981*, being chapter 23, the *Judicature Amendment Act, 1983*, being chapter 3, section 1 of the *Provincial Judges and Masters Statute Law Amendment Act, 1983*, being chapter 78, subsection 106 (1) of the *Judicature Act*, being chapter 100 of the Revised Statutes of Ontario, 1937 and subsection 3 (1) of the *Judicature Amendment Act, 1941*, being chapter 24, are repealed .

Suitors
Fee Fund
Account
abolished

(2) The Suitors Fee Fund Account is abolished and all money in the account shall be paid into the Consolidated Revenue Fund.

188. Section 11 of the *Judicial Review Procedure Act*, being chapter 224 of the Revised Statutes of Ontario, 1980, is repealed.

189.—(1) Subclause 5 (1) (a) (ii) of the *Juries Act*, being chapter 226 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 8 (2) of the said Act is amended by striking out “is designated in a county or district under section 130 of the *Judicature Act*” in the first and second lines and inserting in lieu thereof “is a designated court under clause 136 (1) (a) of the *Courts of Justice Act, 1984*”.

(3) Subsection 11 (1) of the said Act is amended by striking out “the jury roll for the nearest preceding year” in the fourth and fifth lines and inserting in lieu thereof “the jury rolls for the three nearest preceding years”.

(4) Subsection 12 (1) of the said Act is amended by striking out “or of the court of general sessions of the peace” in the fourth and fifth lines.

(5) Section 12 of the said Act is amended by adding thereto the following subsection:

(1a) Where the sittings of the Supreme Court and the District Court are to be held at the same time in the same county or district, a precept under subsection (1) may be issued jointly by a judge of the Supreme Court and a judge of the District Court.

Joint issuance
for Supreme
and District
Courts

(6) Subsection 14 (2) of the said Act is amended by striking out “or court of general sessions of the peace” in the third line.

(7) Sections 15 and 20 of the said Act are repealed.

(8) Subsection 21 (1) of the said Act is amended by striking out “registered” in the second line and inserting in lieu thereof “ordinary”.

(9) Subsection 23 (4) of the said Act is amended by striking out “of the Supreme Court for the trial of criminal matters and proceedings, or in the case of a sittings of the court of general sessions of the peace” in the first, second and third lines and inserting in lieu thereof “for the hearing of criminal proceedings”.

(10) Subsection 24 (2) of the said Act is amended by striking out “or the court of general sessions of the peace, or both” in the third and fourth lines.

(11) Subsection 26 (1) of the said Act is amended by striking out “or court of general sessions of the peace” in the fourth and fifth lines.

(12) Section 28 of the said Act is amended by striking out “courts of general sessions of the peace and of” in the sixth line.

(13) Section 35 of the said Act is amended by striking out “court of general sessions of the peace, and of the” in the second line.

(14) Clause 39 (1) (a) of the said Act is amended by striking out “the court of general sessions of the peace or of” in the second line.

(15) Subsection 42 (2) of the said Act is amended by striking out “or clerk of the peace” in the first line.

(16) Clause 43 (d) of the said Act is amended by striking out “clerk of the peace” in the first line.

(17) Section 46 of the said Act is amended by striking out “and the court of general sessions of the peace” in the second and third lines.

190. Subsection 135 (1) of the *Land Titles Act*, being chapter 230 of the Revised Statutes of Ontario, 1980, is repealed.

191.—(1) Section 11 of the *Libel and Slander Act*, being chapter 237 of the Revised Statutes of Ontario, 1980, is repealed.

(2) The said Act is amended by adding thereto the following section:

Plaintiff's
character or
circumstances
of publication

22a. In an action for libel or slander, where the statement of defence does not assert the truth of the statement complained of, the defendant may not give evidence in chief at trial, in mitigation of damages, concerning the plaintiff's character or the circumstances of publication of the statement, except,

- (a) where the defendant provides particulars to the plaintiff of the matters on which he intends to give evidence, in the statement of defence or in a notice served at least seven days before trial; or
- (b) with leave of the court.

192. Clause 1 (a) of the *Marine Insurance Act*, being chapter 255 of the Revised Statutes of Ontario, 1980, is repealed.

193. The *Matrimonial Causes Act*, being chapter 258 of the Revised Statutes of Ontario, 1980, is repealed.

194. Section 45 of the *Mental Health Act*, being chapter 262 of the Revised Statutes of Ontario, 1980, is repealed.

195.—(1) Section 6 of the *Mental Incompetency Act*, being chapter 264 of the Revised Statutes of Ontario, 1980, is amended by striking out “the confirmation of” in the fourth and fifth lines and by striking out “confirmation” in the fifth and sixth lines and inserting in lieu thereof “propounding”.

(2) Subsection 12 (1) of the said Act is amended by striking out the words following clause (c) in the eleventh, twelfth, thirteenth and fourteenth lines.

(3) Subsection 12 (2) of the said Act is repealed.

(4) Subsection 12 (3) of the said Act is amended by striking out “and any such appointment need not be confirmed” in the fourth line.

(5) Section 38 of the said Act is repealed.

196.—(1) Subsection 41 (2) of the *Mortgages Act*, being chapter 296 of the Revised Statutes of Ontario, 1980, is amended by striking out “the clerk of the county or district court, or by the local master of” in the fifth and sixth lines and inserting in lieu thereof “an assessment officer in”.

(2) Subsection 41 (4) of the said Act is amended by striking out “one of the taxing officers of the Supreme Court at Toronto or by a local master having jurisdiction in the county or district in which the mortgaged property or any part of it is situate” in the third, fourth, fifth and sixth lines and inserting in lieu thereof “an assessment officer”.

197. Section 13 of the *Municipal Arbitrations Act*, being chapter 304 of the Revised Statutes of Ontario, 1980, is repealed.

198. Section 1 of the *Negligence Act*, being chapter 315 of the Revised Statutes of Ontario, 1980, is repealed.

199. Subsections 95 (1), (2) and (3) of the *Ontario Municipal Board Act*, being chapter 347 of the Revised Statutes of

Ontario, 1980, are repealed and the following substituted therefor:

Appeal

(1) Subject to the provisions of Part IV, an appeal lies from the Board to the Divisional Court, with leave of the Divisional Court, on a question of law.

200.—(1) Subsection 3 (1) of the *Partition Act*, being chapter 369 of the Revised Statutes of Ontario, 1980, is amended by striking out “appointed by a surrogate court” in the second line and by striking out “take proceedings” in the third line and inserting in lieu thereof “bring an action or make an application”.

(2) Subsection 4 (1) of the said Act is amended by striking out “application” in the fourth line and inserting in lieu thereof “motion”.

(3) Subsection 4 (3) of the said Act is amended by striking out “application” in the third line and inserting in lieu thereof “motion”.

(4) Subsection 5 (1) of the said Act is amended by striking out “an action or proceeding” in the first line and in the second line and inserting in lieu thereof in each instance “a proceeding”.

(5) Subsection 7 (1) of the said Act is amended by striking out “proceedings under this Act are” in the first line and inserting in lieu thereof “an application under this Act is”.

201. Section 44 of the *Police Act*, being chapter 381 of the Revised Statutes of Ontario, 1980, is repealed.

202. Subsections 3 (1), (2) and (7), subsection 6 (1), section 7, subsection 12 (2) and sections 50 and 53 of the *Private Sanitaria Act*, being chapter 391 of the Revised Statutes of Ontario, 1980, are amended by striking out “clerk of the peace” in each instance where it occurs and inserting in lieu thereof “Crown attorney”.

203.—(1) Section 3 of the *Proceedings Against the Crown Act*, being chapter 393 of the Revised Statutes of Ontario, 1980, is amended by striking out “Except as provided in section 29” in the first line.

(2) Section 14 of the said Act is repealed and the following substituted therefor:

14. In proceedings under this Act, a document to be served personally on the Crown shall be served by leaving a copy of the document with a solicitor in the Crown Law Office (Civil Law) of the Ministry of the Attorney General. Service on the Crown

(3) Section 26 of the said Act is repealed and the following substituted therefor:

26. The Treasurer of Ontario shall pay out of the Consolidated Revenue Fund the amount payable by the Crown under an order of a court that is final and not subject to appeal or under a settlement of a proceeding in a court. Payment by Crown

204.—(1) The title to the *Provincial Courts Act*, being chapter 398 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

JUVENILE OBSERVATION AND DETENTION HOMES ACT

(2) Section 31 of the said Act is amended by striking out “a provincial court (family division)” in the first and second lines and inserting in lieu thereof “the Provincial Court (Family Division) or the Unified Family Court”.

(3) Sections 1 to 26, sections 32 and 33 and clauses 34 (1) (a), (b), (c), (d), (e), (f), (l) and (m) of the said Act are repealed.

(4) The following are repealed:

1. The *Provincial Courts Amendment Act, 1982*, being chapter 22.
2. The *Provincial Courts Amendment Act, 1983*, being chapter 85.
3. Section 2 of the *Provincial Offences Statute Law Amendment Act, 1983*, being chapter 80.
4. Section 2 of the *Provincial Judges and Masters Statute Law Amendment Act, 1983*, being chapter 78.

205. The *Provincial Court (Civil Division) Act*, being chapter 397 of the Revised Statutes of Ontario, 1980 and the *Provincial Court (Civil Division) Project Amendment Act, 1982*, being chapter 58, are repealed.

206.—(1) Subsection 76 (1) of the *Provincial Offences Act*, being chapter 400 of the Revised Statutes of Ontario, 1980, is

amended by inserting after “prescribed” in the second line “by or under any Act”.

(2) Section 114 of the said Act is amended by adding thereto the following subsection:

Appeal as to
leave

(3) No appeal or review lies from a decision on a motion for leave to appeal under subsection (1).

(3) Section 122 of the said Act is amended by adding thereto the following subsection:

Appeal as to
leave

(4) No appeal or review lies from a decision on a motion for leave to appeal under subsection (1).

207. The *Public Officers' Fees Act*, being chapter 416 of the Revised Statutes of Ontario, 1980, is repealed.

208. The *Quieting Titles Act*, being chapter 427 of the Revised Statutes of Ontario, 1980, is repealed.

209. Section 7 of the *Reciprocal Enforcement of Judgments Act*, being chapter 432 of the Revised Statutes of Ontario, 1980, is repealed.

210. The *Replevin Act*, being chapter 449 of the Revised Statutes of Ontario, 1980, is repealed.

211. Clause 1 (1) (a) of the *Sale of Goods Act*, being chapter 462 of the Revised Statutes of Ontario, 1980, is repealed.

212.—(1) Sections 1 and 2 of the *Sheriffs Act*, being chapter 470 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

Sheriffs

1.—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint a sheriff for each county and district and additional sheriffs for such counties and districts as are indicated in the appointment.

Deputy
sheriffs

(2) With the approval of the Attorney General, every sheriff may appoint in writing a deputy sheriff who may exercise and perform all the powers and duties of the sheriff.

Enforcement
of court
orders

2. Except where a statute provides otherwise, orders of a court enforceable in Ontario shall be directed to the sheriff for enforcement.

(2) Subsection 11 (3) of the said Act is repealed.

(3) Section 12 of the said Act is repealed and the following substituted therefor:

12. Every sheriff's office shall be open for business on the days and during the hours that court offices are required to be open under the Rules of Civil Procedure. Office hours

(4) Section 17 of the said Act is amended by striking out "the court of general sessions of the peace" in the third line.

(5) Section 21 of the said Act is repealed.

213. The *Small Claims Courts Act*, being chapter 476 of the Revised Statutes of Ontario, 1980 and the *Small Claims Courts Amendment Act*, 1983, being chapter 22, are repealed.

214.—(1) Subsection 6 (5) of the *Solicitors Act*, being chapter 478 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(5) The amount certified to be due shall be paid by the party liable to pay the amount, forthwith after confirmation of the certificate in the same manner as confirmation of a referee's report under the Rules of Civil Procedure. When payment due

(2) Section 6 of the said Act is amended by adding thereto the following subsection:

(10) A motion to oppose confirmation of the certificate shall be made to a judge of the High Court. Motion to oppose confirmation

(3) The said Act is amended by adding thereto the following section:

6a.—(1) Upon assessment between a solicitor and his client, the assessment officer may allow the costs of steps taken in proceedings that were in fact unnecessary where he is of the opinion that the steps were taken by the solicitor because, in his judgment, reasonably exercised, they were conducive to the interests of his client, and may allow the costs of steps that were not calculated to advance the interests of the client where the steps were taken by the desire of the client after being informed by his solicitor that they were unnecessary and not calculated to advance his interests. Costs of unnecessary steps in proceedings

(2) Subsection (1) does not apply to solicitor and client costs payable out of a fund not wholly belonging to the client, or by a third party. Application

(4) Section 14 of the said Act is repealed.

(5) Subsection 35 (3) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 21, is amended by striking out “section 36 of the *Judicature Act*” in the second and third lines and inserting in lieu thereof “for the purpose of section 138 of the *Courts of Justice Act, 1984*”.

(6) The said Act is further amended by adding thereto the following section:

SOLICITORS' CHARGING ORDERS

Charge on
property for
costs

35a.—(1) Where a solicitor has been employed to prosecute or defend a proceeding in the Supreme Court or the District Court, the court may, on motion, declare the solicitor to be entitled to a charge on the property recovered or preserved through the instrumentality of the solicitor for the solicitor's fees, costs, charges and disbursements in the proceeding.

Conveyance
to defeat is
void

(2) A conveyance made to defeat or which may operate to defeat a charge under subsection (1) is, unless made to a person who purchased the property for value in good faith and without notice of the charge, void as against the charge.

Assessment
and recovery

(3) The court may order that the solicitor's bill for services be assessed in accordance with this Act and that payment shall be made out of the charged property.

(7) Subsection (5) does not apply to bills delivered or overpayments made before this Act comes into force.

215.—(1) Section 3 of the *Surrogate Courts Act*, being chapter 491 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Section 6 of the said Act is amended by striking out “\$100” in the fourth line and inserting in lieu thereof “\$10,000”.

(3) Section 7 of the said Act is amended by striking out “and, except as herein otherwise provided and subject to the surrogate court rules in contentious matters, the practice and procedure of” in the first, second, third and fourth lines.

(4) Section 10 of the said Act is repealed.

(5) Subsections 12 (1) and (2) of the said Act are repealed and the following substituted therefor:

(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint a registrar of the surrogate court for each county and district and additional registrars for such counties and districts as are indicated in the appointment.

Registrars

(2) With the approval of the Attorney General, every surrogate court registrar may appoint in writing a deputy surrogate court registrar who may exercise and perform all the powers and duties of the surrogate court registrar.

Deputy
registrars

(6) Sections 13, 16 and 19 of the said Act are repealed.

(7) Section 80 of the said Act is repealed and the following substituted therefor:

80.—(1) Subject to the approval of the Lieutenant Governor in Council, the Rules Committee of the Supreme and District Courts may make rules for the surrogate courts in relation to the practice and procedure of the courts and may make rules for such courts, even though they alter or conform to the substantive law, in relation to,

Rules

- (a) conduct of proceedings in the courts;
- (b) joinder of claims and parties;
- (c) commencement of proceedings and service of process in or outside Ontario;
- (d) duties of registrars and other officers;
- (e) costs of proceedings, including security for costs;
- (f) any matter that is referred to in an Act as provided for by rules of court.

(2) Nothing in subsection (1) authorizes the making of rules that conflict with an Act, but rules may be made under subsection (1) supplementing the provisions of an Act in respect of practice and procedure.

Idem

(3) The Rules of Civil Procedure apply to surrogate courts, except in so far as the rules of the surrogate courts otherwise provide.

Application
of Rules of
Civil
Procedure

216.—(1) Subsection 37 (7) of the *Trustee Act*, being chapter 512 of the Revised Statutes of Ontario, 1980, is amended by striking out “Registrar of the Supreme Court” in the second

line and inserting in lieu thereof “Surrogate Clerk for Ontario”.

(2) Subsection 37 (8) of the said Act is amended by striking out “Registrar of the Supreme Court” in the second line and inserting in lieu thereof “Surrogate Clerk for Ontario”.

(3) Subsections 38 (3), (4), (5) and (6) of the said Act are repealed.

217. The *Unified Family Court Act*, being chapter 515 of the Revised Statutes of Ontario, 1980, section 5 of the *Children’s Law Reform Amendment Act*, 1982, being chapter 20, the *Unified Family Court Amendment Act*, 1982, being chapter 21, section 3 of the *Provincial Offences Statute Law Amendment Act*, 1983, being chapter 80, the *Unified Family Court Amendment Act*, 1982, being chapter 21 and the *Unified Family Court Amendment Act*, 1983, being chapter 86, are repealed.

218. The *Vexatious Proceedings Act*, being chapter 523 of the Revised Statutes of Ontario, 1980, is repealed.

219. Clause 1 (a) of the *Warehouse Receipts Act*, being chapter 528 of the Revised Statutes of Ontario, 1980, is repealed.

220. Section 39 of the *Woodmen’s Lien for Wages Act*, being chapter 537 of the Revised Statutes of Ontario, 1980, is repealed.

Commence-
ment

221. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

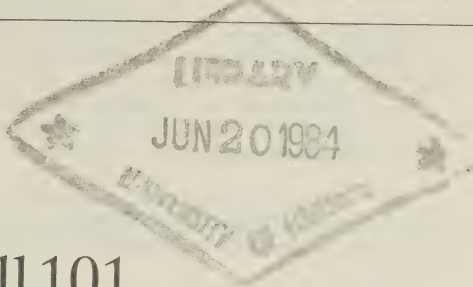
222. The short title of this Act is the *Courts of Justice Act*, 1984.

Bill 101

Government Bill

4TH SESSION, 32ND LEGISLATURE, ONTARIO

33 ELIZABETH II, 1984



Bill 101

An Act to amend the Workers' Compensation Act

The Hon. R. H. Ramsay
Minister of Labour

1st Reading June 12th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill may be described as follows:

1. The definition of "common-law wife" is repealed. The definition of "industrial disease" is re-enacted and a definition of "spouse" is enacted. (s. 1 (2), (5) and (7) of the Bill)
2. Persons who are injured while assisting in an emergency declared by the head of a municipality or the Premier of Ontario will be entitled to compensation. (s. 1 (8) and (9) of the Bill)
3. Section 3 of the Act, which relates to the entitlement to compensation is rewritten. Under section 3, a worker will be entitled to receive his or her full wages for the day of the accident. Section 3 also provides that doubts are to be resolved in favour of the claimant. (s. 3 of the Bill)
4. The expression "health care" replaces the expression "medical aid" throughout the Act. (s. 4 of the Bill)
5. The exemption from civil liability that now applies to employers and employees is extended to the executive officers of employers with respect to industrial accidents. (ss. 5 to 7 of the Bill)
6. The basis on which compensation will be paid is to be amended. (ss. 9 to 12 of the Bill)
7. A new award scheme will be introduced for the dependants of workers who die after the Bill comes into force. The new scheme will apply regardless of when the accident occurred. Under the scheme, a lump sum payment of between \$20,000 and \$60,000, depending on the circumstances, will be paid to the spouse, separated spouse or children of the deceased worker and periodic payments, not exceeding 90 per cent of the deceased worker's net average earnings at the time of the injury, depending on the circumstances, will be payable to the dependants of the worker. (s. 9 of the Bill)
8. Compensation benefits with respect to accidents occurring after the Bill comes into force will be based on 90 per cent of the pre-accident net average earnings calculated on a maximum average earnings ceiling of \$31,500. (ss. 39 to 45 of the Act, as set out in s. 11 of the Bill)
9. The present basis on which benefits are paid is continued with respect to injuries and industrial diseases that occur before the Bill comes into force. As of July 1, 1984, these benefits will be based on 75 per cent of gross earnings calculated on an earnings ceiling of \$26,800 with respect to accidents occurring after that date. (See paragraph 23 below)
10. Provision is made in the Bill for the integration of Canada Pension Plan survivor and disability benefits with the survivor benefits and supplements payable under the Act. (e.g. see ss. 36 (13) and 45 (6), (8) and (9) of the Act, as set out in ss. 9 and 11, respectively, of the Bill)
11. The Board will be authorized to pay an older worker a supplement, until the worker is eligible for old age security benefits, up to the level of the old age security benefits that the worker would receive if he or she were eligible therefor. (ss. 45 (7) and 135 (5b) of the Act, as set out in sections 11 and 37, respectively, of the Bill)
12. Section 50 of the Act is amended to require the Board to divert compensation payments where the worker has been ordered by a court of competent jurisdiction to make support payments. (s. 13 of the Bill)

13. Under sections 14 to 31 of the Bill, the Board will be reorganized and, as provided in sections 86a to 86o of the Act, as set out in section 32 of the Bill, an independent tripartite appeals tribunal, to be known as the “Workers’ Compensation Appeals Tribunal”, will be established.
14. The present commissioners will be replaced by a board of directors which will include “outside” directors. (s. 15 (1) of the Bill)
15. The Board will be given the same investment powers as trustees enjoy under the *Pension Benefits Act*. At present, the Board is restricted to *Trustee Act* investments. (ss. 33 and 35 of the Bill)
16. The Board’s powers to enter agreements with other jurisdictions with respect to the compensation and rehabilitation of injured workers will be formalized and its powers to finance investigations, research and training will be extended by enabling it to make grants to any individual, organization or institution. (s. 24 (3) of the Bill)
17. The Board will be required to give claimants access to the Board’s records. Before giving an employer access to medical records, the Board will be required to give the claimant an opportunity to object to such access. (s. 28 of the Bill)
18. The Board will be authorized to establish a special fund to meet or relieve a loss by any employer in Schedule 2 from all or part of the cost arising from a disaster or other circumstance. (s. 35 of the Bill)
19. Existing provisions related to medical examinations are replaced. The Board will have the power to require medical examinations and the Appeals Tribunal will have the power to obtain the assistance of independent medical practitioners. (ss. 8 and 27 (3) of the Bill and s. 86h of the Act, as set out in s. 32 of the Bill)
20. The Bill provides for the establishment of,
 - (a) the Industrial Disease Standards Panel;
 - (b) the Office of the Worker Adviser; and
 - (c) the Office of the Employer Adviser,all of which will be independent of the Board. (ss. 86p, 86q and 86r of the Act, as set out in s. 32 of the Bill)
21. A mechanism for providing that a disease may be conclusively deemed to be an industrial disease is established. (s. 122 (9a) of the Act, as set out in s. 34 (1) of the Bill)
22. Domestics will be covered by the Act. (s. 36 of the Bill)
23. The provisions of the present Act, except sections 21, 22, 42, 49, 50 and 55 to 86, will continue in force with respect to compensation for injuries and industrial diseases that occurred before the Bill comes into force and with respect to deaths that occurred prior thereto. (s. 37 of the Bill)
24. The protection under the *Human Rights Code* against employment discrimination is extended to claimants. (s. 39 of the Bill)
25. The Bill contains amendments complementary to the amendments set out in paragraphs 1 to 23.

Bill 101

1984

An Act to amend the Workers' Compensation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (1) (b) of the *Workers' Compensation Act*, being chapter 539 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (b) “accident fund” means the fund established by this Act for the payment of benefits under Schedule 1, the costs and expenses of the administration of this Act, and such other costs and expenses as are directed by or under this or any other Act to be paid out of the accident fund, including all expenses arising out of the establishment, maintenance and operation of mine rescue stations under the *Occupational Health and Safety Act*;

R.S.O. 1980,
c. 321

- (ba) “Appeals Tribunal” means the Workers' Compensation Appeals Tribunal;
- (bb) “average earnings” means the average earnings of a worker determined by the Board under section 43.

(2) Clause 1 (1) (d) of the said Act is repealed.

(3) Clauses 1 (1) (g) and (h) of the said Act are repealed.

(4) Clause 1 (1) (k) of the said Act is repealed and the following substituted therefor:

- (k) “employer” includes every person having in the person's service under a contract of hiring or apprenticeship, written or oral, express or implied, any person engaged in any work in or about an industry and includes,

- (i) the Crown in right of Ontario and any permanent board or commission appointed by the Crown in right of Ontario,
- (ii) a trustee, receiver, liquidator, executor or administrator who carries on an industry,
- (iii) a person who authorizes or permits a learner to be in or about an industry for the purpose mentioned in clause (q).

(5) Clauses 1 (1) (n) and (o) of the said Act are repealed and the following substituted therefor:

- (n) "industrial disease" includes,
 - (i) a disease resulting from exposure to a substance relating to a particular process, a trade or occupation in an industry,
 - (ii) a disease peculiar to or characteristic of a particular industrial process, trade or occupation,
 - (iii) a medical condition that in the opinion of the Board requires a worker to be removed either temporarily or permanently from exposure to a substance because the condition may be a precursor to an industrial disease, or
 - (iv) any of the diseases mentioned in Schedule 3 or 4;
- (o) "industry" includes an establishment, undertaking, trade, business or service and, where domestics are employed, includes a household.

(6) Clause 1 (1) (t) of the said Act is repealed and the following substituted therefor:

- (t) "member of the family" means a spouse, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother or half-sister, and includes a person who stood *in loco parentis* to the worker or to whom the worker stood *in loco parentis*, whether related to the worker by consanguinity or not so related.

(7) Subsection 1 (1) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 61, section 3, is further amended by adding thereto the following clause:

(xa) "spouse" means either of a man and woman who, at the time of death of the one who was the worker, were cohabiting and,

(i) were married to each other, or

(ii) not being married, had cohabited with each other immediately preceding the death,

(A) for a period of not less than five years,
or

(B) in a relationship of some permanence, where there is a child born of whom they are the natural parents.

(8) Clause 1 (1) (z) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 61, section 3, is repealed and the following substituted therefor:

(z) "worker" includes a person who has entered into or is employed under a contract of service or apprenticeship, written or oral, express or implied, whether by way of manual labour or otherwise, and includes,

(i) a learner,

(ii) a member of a municipal volunteer fire brigade or a municipal volunteer ambulance brigade,

(iii) a person deemed to be a worker of an employer by a direction or order of the Board,

(iv) a person summoned to assist in controlling or extinguishing a fire by an authority empowered to do so,

(v) a person who assists in any search and rescue operation at the request of and under the direction of a member of the Ontario Provincial Police Force,

(vi) a person who assists in connection with an emergency that has been declared to exist by the head of council of a municipality or the Premier of Ontario,

(vii) an auxiliary member of a police force,

but does not include an outworker, an executive officer of a corporation, or a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's industry.

(9) Subsection 1 (2) of the said Act is repealed and the following substituted therefor:

Deemed
employer

(2) For the purpose of this Act,

- (a) an authority who summons a person to assist in controlling or extinguishing a fire as mentioned in subclause (1) (z) (iv), shall be deemed to be the employer of the person;
- (b) the Crown in right of Ontario shall be deemed to be the employer of a person who assists in any search and rescue operation as mentioned in subclause (1) (z) (v); and
- (c) where the head of council of a municipality or the Premier of Ontario declares an emergency to exist as mentioned in subclause (1) (z) (vi), the municipality or the Crown in right of Ontario, as the case may be, shall be deemed to be the employer of the person,

and the earnings of the person shall be the earnings in the person's regular employment calculated in accordance with this Act or, if the person has no earnings, the earnings shall be fixed by the Board.

(10) Subsection 1 (4) of the said Act is amended by striking out "under section 44" in the thirteenth line and inserting in lieu thereof "determined by the Board" and by striking out "subsection 45 (1)" in the fourteenth and fifteenth lines and inserting in lieu thereof "section 41".

2. Section 2 of the said Act is repealed and the following substituted therefor:

2. A reference in this Act to Schedule 1, 2, 3 or 4, is a reference to Schedule 1, 2, 3 or 4, as the case may be, in the regulations. Schedules

2a. Where the services of a worker are temporarily lent or hired out to another person by the person with whom the worker has entered into a contract of service, the latter is deemed to continue to be the employer of the worker while the worker is working for the other person. Seconded workers

3. Section 3 of the said Act is repealed and the following substituted therefor:

3.—(1) Where in any employment, to which this Part applies, personal injury by accident arising out of and in the course of employment is caused to a worker, the worker and the worker's dependants are entitled to benefits in the manner and to the extent provided under this Act. Compensation to worker and dependants

(2) Where a worker is entitled to compensation for loss of earnings because of an accident, the employer shall pay to or on behalf of the worker the wages and benefits that the worker would have earned for the day or shift on which the injury occurred as though the injury had not occurred. Wages for day of accident

(3) Where the accident arose out of the employment, unless the contrary is shown, it shall be presumed that it occurred in the course of the employment and, where the accident occurred in the course of the employment unless the contrary is shown, it shall be presumed that it arose out of the employment. Presumptions

(4) Where an injury is attributable solely to the serious and wilful misconduct of the worker, no benefits or compensation are payable unless the injury results in death or serious disability. Serious and wilful misconduct

(5) In determining any claim under this Act, the decision shall be made in accordance with the real merits and justice of the case and where it is not practicable to determine an issue because the evidence for or against the issue is approximately equal in weight, the issue shall be resolved in favour of the claimant. Decisions to favour claimant

(6) Where the worker has not been paid the wages and benefits prescribed by subsection (2), the Board shall pay to or on behalf of the worker the wages and benefits prescribed by subsection (2). Payment under subs. (2)

Idem

(7) Every employer who makes default in paying the wages and benefits prescribed by subsection (2) shall, in addition to any other penalty or liability, pay to the Board a sum equal to the amount of such wages and benefits and payment of such amount may be enforced in the same manner as the payment of an assessment may be enforced.

4. Section 5, subsections 6 (8) and 9 (2), sections 20, 33, 52, 82 and 115 and subsections 121 (1) and 122 (11) of the said Act are amended by striking out "medical aid" wherever that expression occurs and inserting in lieu thereof in each instance "health care".

5.—(1) Subsection 8 (1) of the said Act is amended by inserting after "employer" in the fourth line "or an executive officer thereof".

(2) Subsection 8 (9) of the said Act is amended by inserting after "Schedule 1" in the fourth line "or any executive officer".

(3) Subsections 8 (11) and (12) of the said Act are repealed and the following substituted therefor:

Damages

(11) In any action brought by a worker of an employer in Schedule 1 or dependant of such worker in any case within subsection (1) or maintained by the Board under subsection (4) and one or more of the persons found to be at fault or negligent is the employer of the worker in Schedule 1 or an executive officer thereof, or any other employer in Schedule 1, or an executive officer thereof, or any worker of any employer in Schedule 1, no damages, contribution or indemnity are recoverable for the portion of the loss or damage caused by the fault or negligence of such employer of the worker in Schedule 1 or an executive officer thereof, or of any other employer in Schedule 1 or executive officer thereof, or of any worker of any employer in Schedule 1, and the portion of the loss or damage so caused by the fault or negligence of such employer of the worker in Schedule 1 or an executive officer thereof, or of any other employer in Schedule 1 or an executive officer thereof, or of the worker of any employer in Schedule 1, shall be determined although such employer or executive officer or worker is not a party to the action.

Idem

(12) In any action brought by a worker of an employer in Schedule 2 or dependant of such worker in any case within subsection (1) or maintained by the employer of the worker under subsection (4) and one or more of the persons found to be at fault or negligent is the employer of the worker in Schedule 2 or an executive officer thereof, no damages, con-

tribution or indemnity are recoverable for the portion of the loss or damage caused by the fault or negligence of such employer or executive officer and the portion of the loss or damage so caused by the fault or negligence of such employer or executive officer shall be determined although such employer or executive officer is not a party to the action.

6. Section 14 of the said Act is amended by inserting after “worker” in the fourth line “or any executive officer thereof”.

7. Section 15 of the said Act is repealed and the following substituted therefor:

15. Any party to an action may apply to the Appeals Tribunal for adjudication and determination of the question of the plaintiff's right to compensation under this Part, or as to whether the action is one the right to bring which is taken away by this Part, or whether the action is one in which the right to recover damages, contribution, or indemnity is limited by this Part, and such adjudication and determination is final and conclusive.

Determi-
nation
of right to
bring action

8. Sections 21 and 22 of the said Act are repealed.

9. Section 36 of the said Act, as amended by the Statutes of Ontario, 1984, chapter ---, sections 1 and 2, is repealed and the following substituted therefor:

36.—(1) Where death results from an injury to a worker, a spouse who survives the worker shall be entitled to,

Compen-
sation
in case of
death

- (a) compensation payable by way of a lump sum of \$40,000 increased by the addition of \$1,000 for each year of age of the spouse under forty years at the time of the worker's death or reduced by the subtraction of \$1,000 for each year of age of the spouse over forty years at the time of the workers' death, but in no case shall a spouse receive a lump sum payment of more than \$60,000 or less than \$20,000;
- (b) compensation by way of periodic payments in the manner and to the extent provided in this section; and
- (c) the same counselling and vocational assistance as would be provided to a worker under section 54.

(2) Where a deceased worker is survived by a spouse and one or more children, compensation in an amount equal to 90 per cent of the deceased worker's net average earnings at the

Spouse with
children

time of injury shall be payable to the spouse until the youngest child reaches the age of nineteen.

Spouse,
no children

(3) Where the deceased worker is survived by a spouse and no child or children, the spouse shall be entitled to a periodic payment of 40 per cent of the net average earnings of the deceased worker adjusted by the addition of 1 per cent of the net average earnings for each year of age of the spouse over forty years at the time of the worker's death or by the subtraction of 1 per cent of the net average earnings for each year of age of the spouse under forty years at the time of the worker's death, but in no case shall the spouse receive a periodic payment of more than 60 per cent or less than 20 per cent of net average earnings of the deceased worker.

Dependent
children, no
spouse

(4) Where there is no spouse entitled to compensation or the spouse dies and the deceased worker,

- (a) is survived by only one dependent child, the dependent child is entitled to compensation equal to 30 per cent of the net average earnings of the deceased worker at the time of injury; or
- (b) is survived by more than one dependent child, the dependent children are entitled as a class to compensation equal to 30 per cent of the net average earnings of the deceased worker at the time of the injury, plus an additional amount of 10 per cent of the net average earnings of the deceased worker at the time of injury for each additional dependent child over one to a maximum of 90 per cent of the net average earnings.

Idem

(5) Where, at the time of the death of the worker, there is no spouse entitled to receive a lump sum payment under clause (1) (a), the worker's dependent child or children shall be entitled to receive in aggregate a total lump sum payment of \$40,000 in addition to the compensation payable under subsection (4).

Dependants,
no spouse or
children

(6) Where a deceased worker is not survived by a spouse, a child or children and there are dependants, the dependants are entitled to reasonable compensation proportionate to the loss occasioned to the dependants by the death as determined by the Board, but in no case shall the total compensation exceed 50 per cent of the net average earnings of the deceased worker at the time of injury, and the compensation shall be payable only so long as the worker could have been reasonably expected to continue to support the dependant or dependants as if the deceased worker had not suffered injury.

(7) Payment shall be made for the necessary expenses of burial or cremation of a deceased worker, in an amount as fixed from time to time by the Board, which amount shall not be less than \$1,500, and, where owing to the circumstances of the case the body of a worker is transported for a considerable distance for burial or cremation, a further sum, as determined by the Board, shall be paid for the necessary extra expenses so incurred.

Burial
expenses

(8) Subject to subsection (9), where compensation has been paid under subsection (2) and no child is under the age of nineteen years, the spouse shall be entitled to payment of compensation under subsection (3) as if the worker had died on the day after the day the youngest child then living reached the age of nineteen years.

Recalculation
of spousal
periodic
payments

(9) Where the Board is satisfied that it is advisable for a child or children over the age of nineteen to continue education, the Board shall pay in respect of each such child 10 per cent of the net average earnings of the worker at the time of the injury but the total benefit in respect of the spouse and such children shall not exceed 90 per cent of the net average earnings of the worker at the time of the injury.

Education of
children

(10) Subject to subsections (8), (9) and (12), a monthly payment in respect of a child shall cease when the child attains the age of nineteen years or when the Board is satisfied that it is not advisable for a child over the age of nineteen to continue receiving an education.

When child
payments
cease

(11) Where a child or children is or are entitled to compensation under this section and is or are being maintained by a suitable person who is acting *in loco parentis* in a manner the Board considers satisfactory, such person while so doing is entitled to receive the same periodic payments of compensation for himself or herself and the child or children as if the person were a spouse of the deceased and in such case the child's or children's part of such payments shall be in lieu of the periodic payments that the child or children would otherwise be entitled to receive and, where there is more than one child and more than one person acting *in loco parentis*, the Board may in its discretion apportion the payments under this section accordingly and, where this subsection applies, the maximum amount payable under this section shall not exceed 90 per cent of the net average earnings of the deceased worker at the time of death.

Person *in
loco parentis*

(12) Compensation is payable to an invalid child without regard to the age of the child and shall continue until the child ceases to be an invalid or dies.

Invalid
child

Deduction
for C.P.P.

(13) In calculating the average earnings of a deceased worker for the purposes of paying compensation by way of periodic payments under this section, there shall be deducted from such earnings any payments received by way of any survivor's benefit under the Canada Pension Plan.

Separated
spouse

(14) A person who ceased to be a spouse by reason of living separate and apart from the deceased worker at the time of the worker's death is entitled to compensation under this section as a spouse where the worker was or would have been required had the worker not died to make support, maintenance or alimony payments under a separation agreement or judicial order.

Idem

(15) Where, because of the operation of subsection (14), there is more than one person entitled to receive compensation under this section as a spouse, the Board may in its discretion apportion the payments under this section between them and, where this subsection applies, the maximum amount payable by way of lump sum shall not exceed a maximum of \$60,000 and the maximum amount payable by way of periodic payments shall not exceed 90 per cent of the net average earnings of the deceased worker at the time of death.

10. Sections 37 and 38 of the said Act are repealed.

11. Sections 39, 40 and 41, section 42, as amended by the Statutes of Ontario, 1981, chapter 30, section 3, 1982, chapter 61, section 6 and 1983, chapter 45, section 3, section 43, as amended by the Statutes of Ontario, 1984, chapter ---, section 3, section 44, as re-enacted by the Statutes of Ontario, 1984, chapter ---, section 4, and section 45, as amended by the Statutes of Ontario, 1984, chapter ---, section 5, of the said Act are repealed and the following substituted therefor:

When
compensation
payable

39. Compensation for disability shall be computed and payable from and including the day following the day of the accident or from the date of the disability, whichever is the later.

Temporary
total
disability

40.—(1) Where injury to a worker results in temporary total disability, the worker is entitled to compensation under this Act in an amount equal to 90 per cent of the worker's net average earnings before the injury so long as temporary total disability continues.

Temporary
partial
disability

(2) Where temporary partial disability results from the injury, the compensation payable shall be,

- (a) where the worker returns to employment, a weekly payment of 90 per cent of the difference between the net average weekly earnings of the worker before the injury and a net average amount that the worker is able to earn in some suitable employment or business after the injury; or
- (b) where the worker does not return to work, a weekly payment in the same amount as would be payable if the worker were temporarily totally disabled, unless the worker,
 - (i) fails to co-operate in or is not available for a medical or vocational rehabilitation program which would, in the Board's opinion, aid in getting the worker back to work, or
 - (ii) fails to accept or is not available for employment which is available and which in the opinion of the Board is suitable for the worker's capabilities.

(3) In determining the amount to be paid under clause (2) (b), the Board shall have regard to any payments the worker receives under the Canada Pension Plan, and where subclause (2) (b) (i) or (ii) applies, the compensation shall be a periodic amount proportionate to the degree of earnings impairment resulting from the injury as determined by the Board and subsection 45 (4) applies. Idem

41. For the purposes of this Act, the maximum amount of average earnings upon which the loss of earnings is to be calculated shall be at the rate of \$31,500 per annum. Maximum earnings

42.—(1) The minimum amount of compensation payable for temporary total disability shall be, Minimum compensation

- (a) \$10,500 per annum where the net average earnings of the worker at the time of the accident are equal to or exceed \$10,500 per annum; or
- (b) the net average earnings of the worker at the time of the accident where the net average earnings are less than \$10,500 per annum.

(2) The minimum amount of compensation payable for temporary partial disability shall be a proportionate amount of the minimum compensation payable under subsection (1) in accordance with the impairment of earning capacity. Idem

Idem (3) The minimum amount of compensation payable for permanent disability shall be computed in accordance with sections 41 and 45, but the amount of such compensation shall not be less than,

- (a) for permanent total disability in one claim, \$10,500 per annum; and
- (b) for permanent partial disability, an amount proportionate to that mentioned in clause (a) in accordance with the impairment of earning capacity.

Idem (4) The minimum amount of compensation to which a spouse and child or children of a deceased worker are entitled under subsection 36 (2) shall be \$10,500 per annum.

Idem (5) The minimum amount of compensation to which a spouse of a deceased worker is entitled under subsection 36 (3) shall be \$10,500 per annum multiplied by the percentage prescribed therein.

Idem (6) The minimum amount of compensation to which a child or children of a deceased worker is or are entitled under subsection 36 (4) shall be \$10,500 per annum multiplied by the percentage prescribed therein.

Average earnings **43.—**(1) In determining the average earnings of a worker, the Board shall,

- (a) calculate the daily or hourly rate of the worker's earnings with the employer for whom the worker worked at the time of accident as is best calculated to give the rate per week at which the worker was remunerated at the time of the accident;
- (b) if the calculation under clause (a) does not fairly represent the average earnings of the worker, upon application, the Board shall determine the worker's average earnings with the employer for whom the worker worked at the time of the accident during the twelve months or such lesser period immediately preceding the accident when the worker was employed with the employer.

Idem (2) Where owing to the shortness of the time during which the worker was in the employment of the employer or the casual nature of the employment or where it is impractical to calculate the average earnings at the time of the accident, regard may be had to the average earnings that during the twelve months prior to the accident was being earned by a person in

the same grade employed at the same work by the same employer or, if there is no person so employed, then by a person in the same grade employed in the same class of employment in the same locality.

(3) Where the worker has entered into concurrent contracts of service with two or more employers under which the worker worked at one time for one of them and at another time for another of them, the worker's average earnings shall be calculated on the basis of what the worker probably would have been earning if the worker had been employed solely in the employment of the employer for whom the worker was working at the time of the accident. Idem

(4) For the purposes of subsection (2), "employed at the same work by the same employer" means employment by the same employer in the grade in which the worker was employed at the time of the accident uninterrupted by absence from work due to illness or any other unavoidable cause. Interpretation

(5) Where the employer was accustomed to paying the worker a sum to cover any special expenses entailed on the worker by the nature of the employment, that sum shall not be reckoned as part of the worker's earnings. Special expenses

(6) Where a worker is an apprentice or in the course of learning a trade, occupation, profession or calling and the worker's remuneration is of a nominal nature, the Board may for the purposes of this Act determine the worker's average earnings at the time of the accident at an amount it considers fair and equitable having regard to the average earnings of a fully qualified person engaged in the same trade, occupation, profession or calling, and the employer of the worker is liable to pay its assessment to the Board on the earnings so determined. Learners

(7) Where a worker, who has become entitled to benefits under this Act and has returned to employment, becomes entitled to payment for temporary disability by reason of any matter arising out of the original accident, the compensation payable for such temporary disability shall be paid on either the average earnings at the date of the accident or the average earnings at the date of recurrence of the disability, calculated in accordance with this Act, whichever is the greater. Further benefits

44.—(1) The net average earnings of a worker shall be determined by the Board by deducting from the earnings of a worker, Net average earnings

- (a) the probable income tax payable by the worker on the worker's earnings;
- (b) the probable Canada Pension Plan premiums payable by the worker; and
- (c) the probable unemployment insurance premiums payable by the worker.

Idem

(2) The Board shall on the 1st day of January in each year establish a schedule setting forth a table of net average earnings based upon the provisions of this section and such schedule shall be deemed conclusive and final.

Permanent disability

45.—(1) Where permanent disability results from the injury, the impairment of earning capacity of the worker shall be estimated from the nature and degree of the injury, and the compensation shall be a weekly or other periodic payment during the lifetime of the worker, or such other period as the Board may fix, of a sum proportionate to such impairment not exceeding in any case the like proportion of 90 per cent of the worker's net average earnings.

Idem

(2) Compensation for permanent disability is payable whether or not an award is made for temporary disability.

Idem

(3) The Board may compile a rating schedule of percentages of impairment of earning capacity for specified injuries or mutilations that may be used as a guide in determining the compensation payable in permanent disability cases.

Lump sum

(4) Where the impairment of the earning capacity of the worker does not exceed 10 per cent of the worker's earning capacity, instead of a weekly or other periodic payment, the Board shall, unless in the opinion of the Board it would not be to the advantage of the worker to do so, direct that such lump sum as may be considered to be the equivalent of the periodic payment shall be paid to the worker.

Supplement

(5) Notwithstanding subsection (1), where the impairment of the earning capacity of the worker is significantly greater than is usual for the nature and degree of the injury, the Board may supplement the amount awarded for permanent partial disability for such period as the Board may fix unless the worker,

- (a) fails to co-operate in or is not available for a medical or vocational rehabilitation program which would, in the Board's opinion, aid in getting the worker back to work; or

- (b) fails to accept or is not available for employment which is available and which in the opinion of the Board is suitable for the worker's capabilities.

(6) In calculating the amount of the supplement under subsection (5), the Board shall have regard to the difference between the net average earnings of the worker before the accident and the net average earnings after the accident and the compensation shall be a weekly or other periodic payment of 90 per cent of the difference but the sum total of such supplement and the award under subsection (1) shall not exceed the like proportion of 90 per cent of the worker's pre-accident net average earnings and the Board shall have regard to the effect of inflation on the pre-accident earnings rate and to any payments the worker receives under the Canada Pension Plan. Idem

(7) Notwithstanding subsections (1) and (5), where the impairment of earnings capacity for an older worker is significantly greater than is usual for the nature and degree of the worker's injury and, where in the opinion of the Board, the worker can not return to work and is unlikely to benefit from a vocational rehabilitation program which would lead to employment, the Board may supplement the amount awarded for permanent partial disability with an amount not exceeding the old age security benefits that would be payable under section 3 of the *Old Age Security Act* (Canada), and amendments thereto, as if the worker were eligible therefor, and such supplement may continue until the worker is eligible for such old age security benefits or until the worker returns to employment. Older workers
R.S.C. 1970,
c. 0-6

(8) A supplement awarded under subsection (7) shall be a weekly or other periodic payment and the total sum of such supplement and the award under subsection (1) shall not exceed the like proportion of 90 per cent of the worker's pre-accident net average earnings and, in calculating the amount of the supplement, the Board shall have regard to the effect of inflation on the pre-accident earnings rate and to any payments the worker receives under the Canada Pension Plan. Idem

(9) Notwithstanding subsection 40 (3) or subsection (6) or (8) of this section, the fact that a worker is receiving payments under the Canada Pension Plan shall not be a bar to receiving payments under clause 40 (2) (b) or subsection (5) or (7) of this section. Effect of
C.P.P.

(10) Notwithstanding subsection (1), where the worker is seriously and permanently disfigured about the face or head, the Board may allow a lump sum in compensation therefor. Permanent
disfigurement

Dependants

(11) Where, at the time of a worker's death, the worker was in receipt of an award for permanent disability which the Board has rated at 100 per cent or, but for the death, would have been in receipt of an award for permanent disability at the rate of 100 per cent, a dependant of the worker is entitled to compensation from the time of the worker's death as if the death of the worker had resulted from the compensable disability for which the worker received or would have received the permanent disability award.

Interpretation

(12) For the purposes of this section, "permanent disability" means any physical or functional abnormality or loss, and any psychological damage arising from such abnormality or loss, after maximal medical rehabilitation has been achieved.

12. Section 49 of the said Act is repealed.**13. Section 50 of the said Act is repealed and the following substituted therefor:**Family
support

50.—(1) Where a worker is entitled to compensation and the worker's spouse or the worker's child or children under the age of nineteen,

- (a) is or are in receipt of public or private assistance in Ontario; or
- (b) is or are entitled to support or maintenance under the order of a court that in the opinion of the Board is enforceable in Ontario,

the Board may, where clause (a) applies, divert the compensation or a reasonable portion thereof for the benefit of the spouse, child or children and, where clause (b) applies, the Board shall divert the compensation in accordance with the court order to the extent that there is default made under the order after this section comes into force.

Interpretation
R.S.O. 1980,
c. 152

(2) In this section, "spouse" means a spouse as defined in Part II of the *Family Law Reform Act*.

14. Subsection 55 (2) of the said Act is repealed and the following substituted therefor:R.S.O. 1980,
c. 95 not to
apply

(2) The *Corporations Act* does not apply to the corporation and, subject to the provisions of this Act, the corporation shall have the capacity and powers of a natural person.

15.—(1) Sections 56, 57 and 58 of the said Act are repealed and the following substituted therefor:

56.—(1) There shall be constituted for the management and government of the corporation and for the exercise of the powers and performance of the duties of the Board under this or any other Act a board of directors the members of which shall be appointed by the Lieutenant Governor in Council and which shall consist of a full-time chairman, full-time vice-chairman of administration and not less than five and not more than nine part-time members who shall be representative of employers, workers, professional persons and the public.

Board of
directors

(2) The chairman of the Appeals Tribunal shall be a member *ex officio* of the board of directors but shall not vote on any matter.

Ex officio
member

(2) The terms of office of the commissioners of the Board, except the chairman and the vice-chairman of administration, in office immediately before the coming into force of this section are terminated.

16. Section 59 of the said Act is amended by striking out “commissioners” in the first and second lines and inserting in lieu thereof “directors”.

17. Sections 60, 61 and 62 of the said Act are repealed.

18. Subsections 63 (3) and (4) of the said Act are repealed.

19. Section 64 of the said Act is repealed and the following substituted therefor:

64.—(1) In the absence of the chairman from Ontario, the chairman’s inability to act, or where the office of chairman is vacant, the chairman’s duties shall be performed by the vice-chairman of administration.

Where vice-
chairman of
adminis-
tration
may act

(2) Wherever it appears that the vice-chairman acted for and instead of the chairman, it shall be conclusively presumed that the vice-chairman has so acted in the absence, disability or vacancy in the office of the chairman.

Presumption
where vice-
chairman acts

20.—(1) Subsection 65 (1) of the said Act is amended by striking out “A commissioner” in the first line and inserting in lieu thereof “The chairman, the vice-chairman of administration and the chairman of the Appeals Tribunal”.

(2) Subsection 65 (2) of the said Act is amended by striking out “a commissioner” in the third line and inserting in lieu thereof “the chairman, the vice-chairman of administration or the chairman of the Appeals Tribunal”.

21. Section 66 of the said Act is repealed.**22. Subsection 67 (2) of the said Act is repealed and the following substituted therefor:**

Place of
meeting

(2) The board of directors may meet or hold meetings in any place in Ontario as is considered convenient.

23. Subsection 68 (2) of the said Act is amended by striking out "commissioner" in the second line and inserting in lieu thereof "director".**24.—(1) Subsection 71 (2) of the said Act is repealed and the following substituted therefor:**

Quorum

(2) A majority of the members of the board of directors for the time being, one of whom must be the chairman or vice-chairman of administration, constitutes a quorum for the transaction of business at meetings of the Board and a decision of a majority of the board of directors, of whom the vote of the chairman or vice-chairman of administration must be one, is the decision of the board of directors.

(2) Clause 71 (3) (g) of the said Act is amended by striking out "and" at the end thereof.

(3) Clause 71 (3) (h) of the said Act is repealed and the following substituted therefor:

- (h) enter into agreements with the government of Canada or any province or territory in Canada, or the appropriate authority thereof, providing for co-operation in matters relating to compensation for or rehabilitation of workers disabled by injuries arising out of and in the course of employment;
- (i) subject to the approval of the Lieutenant Governor in Council enter into agreements with any state, government or authority outside Canada providing for co-operation in matters relating to compensation for or rehabilitation of workers disabled by injuries arising out of and in the course of employment; and
- (j) undertake and carry on such investigations, research and training and make grants to individuals, institutions and organizations for investigations, research and training in such amounts and upon such terms and conditions as the Board considers acceptable.

(4) Section 71 of the said Act is amended by adding thereto the following subsection:

(4) The board of directors may delegate in writing any of the Board's powers or duties, subject to such limitations, conditions and requirements as are set out in the delegation, to any director, officer or employee of the Board who may act in the place and stead of the board of directors and when a delegate acts in the place and stead of the board of directors, it shall be presumed conclusively that the delegate acted in accordance with the delegation. Delegation

25. Subsection 72 (1) of the said Act is amended by striking out "the approval of the Lieutenant Governor in Council" in the third line and inserting in lieu thereof "such guidelines as may be established by the Management Board of Cabinet" and by striking out "approved" in the tenth line and inserting in lieu thereof "established by the chairman".

26.—(1) Subsection 74 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 61, section 12, is amended by striking out "an employee or commissioner" in the third and fourth lines and inserting in lieu thereof "a full-time member of the board of directors or an employee of the Board".

(2) Clause 74 (2) (a) of the said Act is amended by striking out "commissioners" in the second line and inserting in lieu thereof "full-time members of the board of directors".

(3) Subsection 74 (6) of the said Act is amended by striking out "commissioner" in the first line and inserting in lieu thereof "full-time member of the board of directors".

27.—(1) Subsection 75 (1) of the said Act is amended by adding at the commencement thereof "Except as provided by this Act".

(2) Subsection 75 (2) of the said Act is amended by adding thereto the following clauses:

- (l) the net average earnings of a worker;
- (m) whether a person is a spouse or child.

(3) Section 75 of the said Act is amended by adding thereto the following subsections:

(3) A worker who has made a claim for compensation or to whom compensation is payable under this Act shall, if Medical examination

requested by the Board, submit to a medical examination by a medical practitioner named by the Board.

Failure to
be examined

(4) If a worker contravenes subsection (3) or in any way obstructs an examination without reasonable cause or excuse, the worker's right to compensation or to a decision by the Board is suspended until the examination has taken place.

28. Sections 77 and 78 of the said Act are repealed and the following substituted therefor:

Access to
records by
worker

77.—(1) Subject to subsection (2), where there is an issue in dispute, upon request, the Board shall give a worker, or if deceased, the persons entitled to benefits under section 36, full access to and copies of the Board's file and records respecting the claim and the Board shall provide like access and copies to a representative of the worker upon presentation of a written authorization for that purpose signed by the worker, or if deceased, signed by a person entitled to benefits under section 36.

Medical
information

(2) Where the file or a record respecting the claim, in the opinion of the Board, contains medical or other information that would be harmful to the worker, if given to the worker, the Board shall provide copies of such medical information to the worker's treating physician instead of the worker or the worker's representative and advise the worker or the representative that it has done so.

Access to
records by
employer

(3) Where there is an issue in dispute, upon request, the Board shall grant the employer access to copies of only those records of the Board that the Board considers to be relevant to the issue or issues in dispute and the Board shall provide like access and copies to a representative of the employer upon presentation of written authorization for that purpose signed by the employer.

Idem

(4) Where the employer or the employer's representative is given access to and copies of records referred to in subsection (3), the worker or worker's representative shall be informed of the access to and copies of records so given.

Idem

(5) Before granting access to the employer to medical reports and opinions under subsection (3), the Board shall notify the worker or claimant for compensation of the medical reports or opinions it considers relevant and permit written objections to be made within such time as may be specified in the notice before granting access to the employer and, after considering the objections, the Board may refuse access to the

reports and opinions or may permit access thereto with or without conditions.

(6) A worker, employer or party of record may appeal a decision of the Board made under this section within fourteen days of the Board's decision and no access to or copies of the Board's records shall be provided until the expiry of the fourteen day period or until the Appeals Tribunal gives its decision, whichever is later. Appeal

29.—(1) Section 79 of the said Act is amended by striking out “appeals” in the second line.

(2) Section 79 of the said Act is further amended by adding thereto the following subsection:

(2) Every decision of the Board and the reasons therefor shall be communicated promptly in writing to the parties of record. Decisions
to be
communicated

30. Clause 81 (c) of the said Act is amended by inserting after “worker” in the first line “spouse, child or”.

31.—(1) Subsection 83 (1) of the said Act is amended by striking out “commissioner of the Board, or any other commissioner” in the first and second lines and inserting in lieu thereof “member of the board of directors”.

(2) Subsection 83 (2) of the said Act is amended by striking out “commissioner thereof or any other commissioner” in the first and second lines and inserting in lieu thereof “member of the board of directors”.

(3) Subsection 83 (3) of the said Act is amended by striking out “commissioner thereof or any other commissioner” in the second line and inserting in lieu thereof “member of the board of directors”.

(4) Subsection 83 (4) of the said Act is amended by striking out “commissioner thereof or any other commissioner” in the third and fourth lines and inserting in lieu thereof “member of the board of directors”.

32. The said Act is amended by adding thereto the following sections:

86a. There is hereby constituted a tribunal to be known as the “Workers’ Compensation Appeals Tribunal”. Appeals
Tribunal
established

Composition
of Appeals
Tribunal

86b.—(1) The Lieutenant Governor in Council shall appoint a chairman of the Appeals Tribunal, one or more vice-chairmen of the Appeals Tribunal and as many members of the Appeals Tribunal, equal in number, representative of employers and workers, respectively, as is considered appropriate.

Remuneration

(2) The remuneration, benefits and allowances of the members of the Appeals Tribunal shall be determined by the Lieutenant Governor in Council.

Officers
and
employees
R.S.O. 1980,
c. 180

(3) The chairman of the Appeals Tribunal, subject to such guidelines as may be established by the Management Board of Cabinet and subject to the provisions of the *Crown Employees Collective Bargaining Act*, may establish job classifications, personnel qualifications and salary ranges for officers and employees of the Appeals Tribunal, and the chairman may appoint, promote and employ the same in conformity with the classifications, qualifications and salary ranges so established by the chairman.

Super-
annuation

(4) For the purposes of section 74 only, every full-time member of the Appeals Tribunal and every person appointed under subsection (3) to full-time employment shall be deemed to be an employee of the Board.

Recovery of
costs and
expenses

(5) The costs and expenses associated with the administration of the Appeals Tribunal, including the remuneration and expenses of its members, officers and employees, shall form part of the administration expenses of the Board.

Chairman

86c.—(1) The chairman of the Appeals Tribunal is its chief executive officer and shall preside at its meetings and upon all panels of the Appeals Tribunal of which the chairman is a member.

When vice-
chairman
may act

(2) In the absence from Ontario of the chairman, the chairman's inability to act or where the office is vacant, the chairman's duties shall be performed by a vice-chairman designated to act by the chairman or, where the chairman has failed so to designate, by a vice-chairman designated to act by the Minister of Labour.

Presumption
where vice-
chairman acts

(3) Whenever it appears that a vice-chairman has acted for and instead of the chairman, it shall be presumed that the vice-chairman has so acted in the absence or disability of the chairman or because of a vacancy in the office of the chairman.

86d.—(1) A quorum shall consist of the chairman of the Appeals Tribunal or a vice-chairman of the Appeals Tribunal designated by the chairman to act in place of the chairman and not less than two members of the Appeals Tribunal to be equal in number and representative of employers and workers. Quorum

(2) A quorum may exercise all the jurisdiction and powers of the Appeals Tribunal. Idem

(3) The decision of the majority of the quorum present and constituting the Appeals Tribunal is the decision thereof, but if there is no majority the decision of the chairman or the vice-chairman governs. Deciding vote

86e.—(1) The chairman of the Appeals Tribunal may establish panels of the Appeals Tribunal and a panel has all the jurisdiction and powers of the Appeals Tribunal. Panels

(2) A panel of the Appeals Tribunal shall consist of three members as follows: Composition

1. The chairman or a vice-chairman of the Appeals Tribunal.
2. One member of the Appeals Tribunal representative of employers.
3. One member of the Appeals Tribunal representative of workers.

(3) The decision of the majority of a panel consisting of three persons is the decision of the Appeals Tribunal and if there is no majority the decision of the chairman of the panel governs. Deciding vote

86f. Where the chairman, a vice-chairman or other member of the Appeals Tribunal resigns or the term of office expires, the person may carry out and complete any duties or responsibilities that the person would have had if the person had not resigned or the person's term had not expired in respect of any application, proceeding or matter in which the person participated. Effect of resignation, expiry of term

86g.—(1) Subject to section 86n, the Appeals Tribunal has exclusive jurisdiction to hear, determine and dispose of, Jurisdiction

- (a) any matter or issue expressly conferred upon it by this Act;

- (b) all appeals from decisions, orders or rulings of the Board respecting the provision of health care, vocational rehabilitation or entitlement to compensation or benefits under this Act; and
- (c) all appeals respecting assessments, penalties or the transfer of costs,

and subsection 75 (2) applies with necessary modifications where a matter referred to in that subsection is raised in an appeal.

Idem

(2) The Appeals Tribunal shall not hear, determine or dispose of an appeal from a decision, order or ruling of the Board unless the procedures established by the Board for consideration of issues respecting the matters mentioned in clause (1) (b) or (c) have been exhausted, and the Board has made a final decision, order or ruling thereon.

Idem

(3) The Appeals Tribunal may make any order or direction that may be made by the Board and the order or direction of the Appeals Tribunal or a panel thereof is final and conclusive and not open to question or review in any court upon any grounds and no proceedings by or before the Appeals Tribunal or a panel thereof shall be restrained by injunction, prohibition or other process or proceeding in any court or be removable by application for judicial review, or otherwise, into any court.

Panel of
medical
practitioners

86h.—(1) The Lieutenant Governor in Council, after requesting and considering the views of representatives of employers, workers and physicians, shall appoint qualified medical practitioners, other than practitioners appointed under subsection 72 (1) or 86b (3), to a list and the Appeals Tribunal may obtain the assistance of one or more of them in such way and at such time or times as it thinks fit so as to better enable it to determine any matter of fact in question in any application, appeal or proceeding.

Remuneration

(2) The chairman of the Appeals Tribunal may fix the remuneration of a medical practitioner who provides assistance to the Appeals Tribunal under this section and the remuneration shall be part of the administrative expenses of the Board.

Limitations

(3) A medical practitioner shall not be asked, except with the written consent of the parties of record, to assist the Appeals Tribunal in any application, appeal or proceeding where the practitioner,

- (a) has examined the worker whose claim is the subject-matter of the application, appeal or proceeding;
- (b) has treated the worker or a member of the family of the worker;
- (c) has acted as a consultant in the treatment of the worker or as a consultant to the employer; or
- (d) is a partner of a practitioner mentioned in clause (a), (b) or (c).

(4) The Appeals Tribunal has power to authorize the chairman or a vice-chairman to inquire into applications by way of appeal under clause 86g (1) (b) to determine whether an issue involves a decision of the Board upon a medical report or opinion and, if such is the case, the person making the inquiry may, before the appeal is heard by the Appeals Tribunal, require that the worker submit to an examination by one or more medical practitioners appointed under subsection (1) who shall report, in writing, to the Appeals Tribunal thereon.

Pre-hearing
inquiry

(5) The Appeals Tribunal shall, upon receiving the report of the medical practitioner or practitioners, send a copy thereof to the parties to the appeal for the purpose of receiving their submissions thereon.

Copies of
report

(6) Nothing in subsection (4) limits the right of the Appeals Tribunal to exercise its powers under subsection (1) during the hearing of an appeal.

Powers not
affected

(7) If a worker is required by the Appeals Tribunal to submit to an examination by one or more medical practitioners who provide assistance to the Appeals Tribunal under this section and the worker does not submit to the examination or in any way obstructs the examination, the worker's right to compensation or to a final decision by the Appeals Tribunal may be suspended by the Appeals Tribunal.

Failure to
be examined

86i. Section 83 applies with necessary modifications to the chairman, vice-chairmen and other members of the Appeals Tribunal, to all officers and employees of the Appeals Tribunal and any person engaged by the Appeals Tribunal to conduct an examination, test or inquiry, or authorized to perform any function under this Act.

Application
of s. 83

86j.—(1) Upon receipt of a notice of appeal, the Appeals Tribunal shall, as soon as practicable, notify the Board and the parties of record of the appeal and the issue or issues in respect of which the appeal is brought and shall furnish the

Notice

same with copies of any written submissions made with respect thereto.

Payments
pending
appeal

(2) Any periodic payments to be paid under a decision of the Board shall be paid notwithstanding that an appeal is taken therefrom and any amounts paid may be dealt with as the Appeals Tribunal shall direct.

Transmission
of records

(3) Upon receipt of a notice under subsection (1), the Board shall forthwith transmit the Board's records related to the appeal to the chairman of the Appeals Tribunal.

Rules

86k. The Appeals Tribunal shall determine its own practice and procedure and may, subject to the approval of the Lieutenant Governor in Council, make rules governing its practice and procedure and the exercise of its powers in respect thereto, and may prescribe such forms as it considers necessary.

Powers of
Appeals
Tribunal

86l.—(1) The Appeals Tribunal may confirm, vary, reverse or uphold any decision of the Board under appeal.

Communi-
cation
of decisions

(2) Every decision of the Appeals Tribunal and the reasons therefor shall be communicated promptly in writing to the Board and the parties of record.

Application
of certain
sections

86m. Sections 76, 80 and 81 apply with necessary modifications to the Appeals Tribunal as if a reference to the Board were a reference to the Appeals Tribunal.

Determi-
nation
of issues by
Board

86n.—(1) Where a decision of the Appeals Tribunal turns upon an interpretation of the policy and general law of this Act, the board of directors of the Board may, in its discretion, stay the enforcement or execution of the order of the Appeals Tribunal, review and determine the issue of interpretation of the policy and general law of this Act and direct the Appeals Tribunal to reconsider the matter in light of the determination of the board of directors.

Idem

(2) The board of directors of the Board may, in its discretion where it considers it desirable to do so, hold a hearing upon a review under subsection (1), except that whether or not the board of directors holds a hearing, it is not required to give reasons for its determination and notwithstanding any rule of law, it is not required to hold any hearing before making any determination.

Appeals

86o.—(1) An appeal to the Appeals Tribunal lies from a decision of the Board with respect to the matters referred to in clauses 86g (b) and (c).

(2) With the leave of the Appeals Tribunal, a decision of a panel of the Board made before this section comes into force may be appealed to the Appeals Tribunal. Transition

(3) Leave to appeal a decision to which subsection (2) applies shall not be granted unless, Idem

(a) there is substantial new evidence which was unavailable at the time of the hearing by the panel; or

(b) there appears to the Appeals Tribunal to be good reason to doubt the correctness of the decision.

86p.—(1) There is hereby constituted a panel to be known as the Industrial Disease Standards Panel. Industrial
Disease
Standards
Panel

(2) The Panel shall be composed of not more than nine members including persons representative of the public and of the scientific community and technical and professional persons. Composition

(3) The members of the Panel shall be appointed by the Lieutenant Governor in Council one of whom shall be designated by the Lieutenant Governor in Council as chairman of the Panel and one of whom shall be designated by the Lieutenant Governor in Council as vice-chairman. Idem

(4) The remuneration, benefits and allowances of the members of the Panel shall be determined by the Lieutenant Governor in Council. Remuneration

(5) The chairman of the Panel, subject to such guidelines as may be established by the Management Board of Cabinet and subject to the provisions of the *Crown Employees Collective Bargaining Act*, may establish job classifications, personnel qualifications and salary ranges for officers and employees of the Panel, and the chairman may appoint, promote and employ the same in conformity with the classifications, qualifications and salary ranges so established by the chairman. Officers and
employees
R.S.O. 1980,
c. 108

(6) The costs and expenses associated with the administration of the Panel, including the remuneration and expenses of its members, officers and employees, shall be paid by the Ministry of Labour and shall be chargeable by the Ministry to the Board and the costs and expenses shall form part of the administrative expenses of the Board. Recovery of
costs and
expenses

(7) It shall be the function of the Panel, Functions

(a) to investigate possible industrial diseases;

- (b) to make findings as to whether a probable connection exists between a disease and an industrial process in Ontario;
- (c) to create, develop and revise criteria for the evaluation of claims respecting industrial diseases; and
- (d) to advise on eligibility rules regarding compensation for claims respecting industrial diseases.

Special panels

(8) The Panel may establish special panels to investigate matters arising out of its functions under subsection (6) and may appoint *ad hoc* members who are specialists in particular diseases and in industrial processes to such special panels which shall report thereon to the Panel.

Practice and procedure

R.S.O. 1980,
c. 484

(9) The Panel shall determine its own practice and procedure and shall not be subject to or affected in any way by the *Statutory Powers Procedure Act*, or by any rules made under it.

Report to Board

(10) The Panel shall report its findings to the Board.

Notice of findings

(11) Before accepting or rejecting any findings of the Panel, the Board shall publish in *The Ontario Gazette* a notice setting forth the nature of the findings and calling for comments, briefs and submissions thereon to be filed with the Board within sixty days of the publication of the notice or within such longer period as the Board may specify in the notice.

Acceptance

(12) Upon the expiry of the period allowed for the filing under subsection (11), the Board may accept the findings of the Panel with or without amendments or may reject the findings.

Idem

(13) Where the findings of the Panel are accepted under subsection (12) with amendments or rejected, the Board need not give any further notice under subsection (11).

Publication of findings

(14) Where the Board accepts or rejects the findings of the Panel, notice of the Board's acceptance or rejection shall be published in *The Ontario Gazette*.

Annual report

(15) The Panel shall, after the close of each year, file with the Minister of Labour an annual report upon the affairs of the Panel, and the Minister shall cause a copy of the report to be laid before the Assembly if it is in session or, if not, at the next ensuing session.

86q.—(1) The Minister of Labour shall establish an office to be known as the “Office of the Worker Adviser” and shall pay such remuneration and expenses as may be required to carry out such functions as may be assigned to it by the Minister.

Office of
Worker
Adviser

(2) The Board shall reimburse the Minister for the remuneration and expenses referred to in subsection (1).

Idem

86r.—(1) The Minister of Labour shall establish an office to be known as the “Office of the Employer Adviser” and shall pay such remuneration and expenses as may be required to carry out such functions as may be assigned to it by the Minister.

Office of
Employer
Adviser

(2) The Board shall reimburse the Minister for the remuneration and expenses referred to in subsection (1).

Idem

33. Section 113 of the said Act is amended by striking out “*Trustee Act*” in the eighth line and inserting in lieu thereof “*Pension Benefits Act*”.

34.—(1) Subsection 122 (9) of the said Act is repealed and the following substituted therefor:

(9) If the worker at or before the date of the disablement was employed in any process mentioned in the second column of Schedule 3 and the disease contracted is the disease in the first column of the Schedule set out opposite to the description of the process, the disease shall be deemed to have been due to the nature of that employment unless the contrary is proved.

Presumption

(9a) If the worker at or before the date of the disablement was employed in any process mentioned in the second column of Schedule 4 and the disease contracted is the disease in the first column of the Schedule set out opposite to the description of the process, the disease shall be conclusively deemed to have been due to the nature of the employment.

Idem

(2) Subsection 122 (12) of the said Act is repealed and the following substituted therefor:

(12) Notwithstanding any other provision of this Act, the Board may enter into an agreement with the appropriate authority in any jurisdiction in Canada to provide for the apportionment of the costs of the claims for industrial diseases for workers who have had exposure employment in more than one Canadian jurisdiction.

Agreements
for cost
sharing

(3) Subsection 122 (16) of the said Act is amended by inserting after "3" in the third line "or 4".

35. Section 125 of the said Act is amended by adding thereto the following subsections:

Investments

(2) The payments and deposits referred to in sections 29 and 33 shall be invested in any such securities as a trustee may invest in under the *Pension Benefits Act*.

R.S.O. 1980,
c. 373

Special
funds

(3) The Board, where it considers proper, may add to the amount payable by an employer under subsection (1) a percentage or sum for the purpose of raising special funds and the Board may use such moneys to meet a loss or relieve any employer in Schedule 2 from all or part of the costs arising from any disaster or other circumstance where, in the opinion of the Board, it is proper to do so.

36. Section 131 of the said Act is repealed and the following substituted therefor:

Domestics

131. This Part does not apply to domestics or their employers to whom Part I applies.

37. The said Act is further amended by adding thereto the following Part:

PART III

Transition

132. Subject to this Part, this Act, as it read immediately before the coming into force of this section, continues to apply to personal injury by accident and to an industrial disease where the accident or disease occurred before the day this section comes into force, and to death resulting from injury or industrial disease where the death occurred before the coming into force of this section.

Repeals

133.—(1) Sections 21, 22, 42 and 49 of this Act, as continued by section 132, are repealed.

Temporary
disability
adjustment

(2) Where a worker is in receipt of temporary disability benefits on the day this section comes into force, the Board shall adjust the rate of compensation by adding thereto an additional 5 per cent but the compensation rate resulting from the adjustment shall not exceed the maximum established by sections 39 and 45, as continued by section 132.

s. 41 (2),
re-enacted

134. Subsection 41 (2) of this Act, as continued by section 132, is repealed and the following substituted therefor:

(2) In determining the amount to be paid under clause (1) (b), the Board shall have regard to any payments the worker receives under the Canada Pension Plan, and where subclause (1) (b) (i) or (ii) applies, the compensation shall be a periodic amount proportionate to the degree of earnings impairment resulting from the injury as determined by the Board and subsection 43 (4) applies. Idem

135. Subsection 43 (5) of this Act, as continued by section 132, is repealed and the following substituted therefor: s. 43 (5),
re-enacted

(5) Notwithstanding subsection (1), where the impairment of earning capacity of the worker is significantly greater than is usual for the nature and degree of injury, the Board may supplement the amount awarded for permanent partial disability for such period as the Board may fix unless the worker, Periodic
payments

- (a) fails to co-operate in or is not available for a medical or vocational rehabilitation program which would, in the Board's opinion, aid in getting the worker back to work; or
- (b) fails to accept or is not available for employment which is available and which in the opinion of the Board is suitable for the worker's capabilities.

(5a) In calculating the amount of the supplement under subsection (5), the Board shall have regard to the difference between the average earnings of the worker before the accident and the average earnings after the accident and the compensation shall be a weekly or other periodic payment of 75 per cent of the difference, but the total of such supplement and the award under subsection (1) shall not exceed the like proportion of 75 per cent of the worker's pre-accident average earnings, and the Board shall have regard to the effect of inflation on the pre-accident earnings rate and to any payments the worker receives under the Canada Pension Plan. Idem

(5b) Notwithstanding subsections (1) and (5), where the impairment of earnings capacity for an older worker is significantly greater than is usual for the nature and degree of the worker's injury and, where in the opinion of the Board, the worker can not return to work and is unlikely to benefit from a vocational rehabilitation program which would lead to employment, the Board may supplement the amount awarded for permanent partial disability with an amount not exceeding the old age security benefits that would be payable under section 3 of the *Old Age Security Act* (Canada), and amendments thereto, as if the worker were eligible therefor, and such supplement may continue until the worker is eligible for such old Older
workers

R.S.C. 1970,
c. 0-6

age security benefits or until the worker returns to employment.

Idem

(5c) A supplement awarded under subsection (5b) shall be a weekly or other periodic payment and the total sum of such supplement and the award under subsection (1) shall not exceed the like proportion of 75 per cent of the worker's pre-accident average earnings and, in calculating the amount of the supplement, the Board shall have regard to any payments the worker receives under the Canada Pension Plan.

Effect of
C.P.P.

(5d) Notwithstanding subsection (5a) or (5c), the fact that a worker is receiving payments under the Canada Pension Plan shall not be a bar to receiving a supplement under subsections (5) or (5b).

Application
of
certain
sections
1984, c. ...

136. Section 50 and sections 55 to 86r of this Act, as amended, repealed, enacted or re-enacted by sections 13 to 32 of the *Workers' Compensation Amendment Act, 1984*, apply to this Act, as continued by section 132.

R.S.O. 1980,
c. 539

38. Where an application or appeal has been heard by the Board or a panel thereof pursuant to sections 75 and 77 of the *Workers' Compensation Act*, as those sections read immediately prior to the coming into force of this section, and a final decision or action thereon has not been made or taken before the day this section comes into force, the Board or a panel thereof may carry out and complete any duties or responsibilities and exercise any powers in connection with the application or appeal as though this Act had not been enacted.

39. Clause 9 (b) of the *Human Rights Code, 1981*, being chapter 53, is amended by striking out "or" at the end of subclause (iii), by adding "or" at the end of subclause (iv) and by adding thereto the following subclause:

R.S.O. 1980,
c. 539

(v) an injury or disability for which benefits were claimed or received under the *Workers' Compensation Act*.

Commence-
ment

40. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

41. The short title of this Act is the *Workers' Compensation Amendment Act, 1984*.

Bill 101

An Act to amend the Workers' Compensation Act

The Hon. R. H. Ramsay
Minister of Labour

1st Reading June 12th, 1984
2nd Reading June 19th, 1984
3rd Reading
Royal Assent

(Reprinted as amended by the Resources Development Committee)

EXPLANATORY NOTE

The Bill may be described as follows:

1. The definition of "common-law wife" is repealed. The definition of "industrial disease" is re-enacted and a definition of "spouse" is enacted. (s. 1 (2), (5) and (7) of the Bill)
2. Persons who are injured while assisting in an emergency declared by the head of a municipality or the Premier of Ontario will be entitled to compensation. (s. 1 (8) and (9) of the Bill)
3. Section 3 of the Act, which relates to the entitlement to compensation is re-written. Under section 3, a worker will be entitled to receive his or her full wages for the day of the accident. Section 3 also provides that doubts are to be resolved in favour of the claimant. (s. 3 of the Bill)
4. The expression "health care" replaces the expression "medical aid" throughout the Act. (s. 4 of the Bill)
5. The exemption from civil liability that now applies to employers and employees is extended to the executive officers of employers with respect to industrial accidents. (ss. 5 to 7 of the Bill)
6. The basis on which compensation will be paid is to be amended. (ss. 9 to 12 of the Bill)
7. A new award scheme will be introduced for the dependants of workers who die after the Bill comes into force. The new scheme will apply regardless of when the accident occurred. Under the scheme, a lump sum payment of between \$20,000 and \$60,000, depending on the circumstances, will be paid to the spouse, separated spouse or children of the deceased worker and periodic payments, not exceeding 90 per cent of the deceased worker's net average earnings at the time of the injury, depending on the circumstances, will be payable to the dependants of the worker. (s. 9 of the Bill)
8. Compensation benefits with respect to accidents occurring after the Bill comes into force will be based on 90 per cent of the pre-accident net average earnings calculated on a maximum average earnings ceiling of \$31,500. (ss. 39 to 45 of the Act, as set out in s. 11 of the Bill)
9. The present basis on which benefits are paid is continued with respect to injuries and industrial diseases that occur before the Bill comes into force. As of July 1, 1984, these benefits will be based on 75 per cent of gross earnings calculated on an earnings ceiling of \$26,800 with respect to accidents occurring after July 1. (See paragraph 24 below)
10. Provision is made in the Bill for the integration of Canada Pension Plan survivor and disability benefits with the survivor benefits and supplements payable under the Act. (e.g. see ss. 36 (13) and 45 (6), (8) and (9) of the Act, as set out in ss. 9 and 11, respectively, of the Bill)
11. The Board will be authorized to pay an older worker a supplement, until the worker is eligible for old age security benefits, up to the level of the old age security benefits that the worker would receive if he or she were eligible therefor. (ss. 45 (7) and 135 (5b) of the Act, as set out in sections 11 and 37, respectively, of the Bill)
12. Section 50 of the Act is amended to require the Board to divert compensation payments where the worker has been ordered by a court of competent jurisdiction to make support payments. (s. 13 of the Bill)

13. Under sections 14 to 31 of the Bill, the Board will be reorganized and, as provided in sections 86a to 86o of the Act, as set out in section 32 of the Bill, an independent tripartite appeals tribunal, to be known as the “Workers’ Compensation Appeals Tribunal”, will be established.
14. The present commissioners will be replaced by a board of directors which will include “outside” directors. (s. 15 (1) of the Bill)
15. The Board will be given the same investment powers as trustees enjoy under the *Pension Benefits Act*. At present, the Board is restricted to *Trustee Act* investments. (ss. 33 and 35 of the Bill)
16. The Board’s powers to enter agreements with other jurisdictions with respect to the compensation and rehabilitation of injured workers will be formalized and its powers to finance investigations, research and training will be extended by enabling it to make grants to any individual, organization or institution. (s. 24 (3) of the Bill)
17. The Board will be required to give claimants access to the Board’s records. Before giving an employer access to medical records, the Board will be required to give the claimant an opportunity to object to such access. (s. 28 of the Bill)
18. The Board will be authorized to establish a special fund to meet or relieve a loss by any employer in Schedule 2 from all or part of the cost arising from a disaster or other circumstance. (s. 35 of the Bill)
19. Existing provisions related to medical examinations are replaced. The Board will have the power to require medical examinations and the Appeals Tribunal will have the power to obtain the assistance of independent medical practitioners. (ss. 8 and 27 (3) of the Bill and s. 86h of the Act, as set out in s. 32 of the Bill)
20. The Bill provides for the establishment of,
 - (a) the Industrial Disease Standards Panel;
 - (b) the Office of the Worker Adviser; and
 - (c) the Office of the Employer Adviser,all of which will be independent of the Board. (ss. 86p, 86q and 86r of the Act, as set out in s. 32 of the Bill)
21. Services under the Act shall, where appropriate, be available in the French language. (s. 86s of the Act, as set out in section 32 of the Bill)
22. A mechanism for providing that a disease may be conclusively deemed to be an industrial disease is established. (s. 122 (9a) of the Act, as set out in s. 34 (1) of the Bill)
23. Domestic workers will be covered by the Act. (s. 36 of the Bill)
24. The provisions of the present Act, except sections 21, 22, 42, 49, 50 and 55 to 86, will continue in force with respect to compensation for injuries and industrial diseases that occurred before the Bill comes into force and with respect to deaths that occurred prior thereto. (s. 37 of the Bill)
25. The protection under the *Human Rights Code* against employment discrimination is extended to claimants. (s. 39 of the Bill)
26. The Bill contains amendments complementary to the amendments set out in paragraphs 1 to 24.

Bill 101

1984

An Act to amend the Workers' Compensation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (1) (b) of the *Workers' Compensation Act*, being chapter 539 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(b) “accident fund” means the fund established by this Act for the payment of benefits under Schedule 1, the costs and expenses of the administration of this Act, and such other costs and expenses as are directed by or under this or any other Act to be paid out of the accident fund, including all expenses arising out of the establishment, maintenance and operation of mine rescue stations under the *Occupational Health and Safety Act*;

R.S.O. 1980.
c. 321

(ba) “Appeals Tribunal” means the Workers' Compensation Appeals Tribunal;

(bb) “average earnings” means the average earnings of a worker determined by the Board under section 43.

(2) Clause 1 (1) (d) of the said Act is repealed.

(3) Clauses 1 (1) (g) and (h) of the said Act are repealed.

(4) Clause 1 (1) (k) of the said Act is repealed and the following substituted therefor:

(k) “employer” includes every person having in the person's service under a contract of hiring or apprenticeship, written or oral, express or implied, any person engaged in any work in or about an industry and includes,

- (i) the Crown in right of Ontario and any permanent board or commission appointed by the Crown in right of Ontario,
- (ii) a trustee, receiver, liquidator, executor or administrator who carries on an industry,
- (iii) a person who authorizes or permits a learner to be in or about an industry for the purpose mentioned in clause (q).

(5) Clauses 1 (1) (n) and (o) of the said Act are repealed and the following substituted therefor:

- (n) "industrial disease" includes,
 - (i) a disease resulting from exposure to a substance relating to a particular process, a trade or occupation in an industry,
 - (ii) a disease peculiar to or characteristic of a particular industrial process, trade or occupation,
 - (iii) a medical condition that in the opinion of the Board requires a worker to be removed either temporarily or permanently from exposure to a substance because the condition may be a precursor to an industrial disease, or
 - (iv) any of the diseases mentioned in Schedule 3 or 4;
- (o) "industry" includes an establishment, undertaking, trade, business or service and, where domestics are employed, includes a household.

(6) Clause 1 (1) (t) of the said Act is repealed and the following substituted therefor:

- (t) "member of the family" means a spouse, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother or half-sister, and includes a person who stood *in loco parentis* to the worker or to whom the worker stood *in loco parentis*, whether related to the worker by consanguinity or not so related.

(7) Subsection 1 (1) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 61, section 3, is further amended by adding thereto the following clause:

- (xa) “spouse” means either of a man and woman who, at the time of death of the one who was the worker, were cohabiting and,
 - (i) were married to each other, or
 - (ii) not being married, had cohabited with each other immediately preceding the death,
 - (A) for a period of not less than five years, or
 - (B) in a relationship of some permanence, where there is a child born of whom they are the natural parents.

(8) Clause 1 (1) (z) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 61, section 3, is repealed and the following substituted therefor:

- (z) “worker” includes a person who has entered into or is employed under a contract of service or apprenticeship, written or oral, express or implied, whether by way of manual labour or otherwise, and includes,
 - (i) a learner,
 - (ii) a member of a municipal volunteer fire brigade or a municipal volunteer ambulance brigade,
 - (iii) a person deemed to be a worker of an employer by a direction or order of the Board,
 - (iv) a person summoned to assist in controlling or extinguishing a fire by an authority empowered to do so,
 - (v) a person who assists in any search and rescue operation at the request of and under the direction of a member of the Ontario Provincial Police Force,

(vi) a person who assists in connection with an emergency that has been declared to exist by the head of council of a municipality or the Premier of Ontario,

(vii) an auxiliary member of a police force,

but does not include an outworker, an executive officer of a corporation, or a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's industry.

(9) Subsection 1 (2) of the said Act is repealed and the following substituted therefor:

Deemed
employer

(2) For the purpose of this Act,

- (a) an authority who summons a person to assist in controlling or extinguishing a fire as mentioned in subclause (1) (z) (iv), shall be deemed to be the employer of the person;
- (b) the Crown in right of Ontario shall be deemed to be the employer of a person who assists in any search and rescue operation as mentioned in subclause (1) (z) (v); and
- (c) where the head of council of a municipality or the Premier of Ontario declares an emergency to exist as mentioned in subclause (1) (z) (vi), the municipality or the Crown in right of Ontario, as the case may be, shall be deemed to be the employer of the person,

and the earnings of the person shall be the earnings in the person's regular employment calculated in accordance with this Act or, if the person has no earnings, the earnings shall be fixed by the Board.

(10) Subsection 1 (4) of the said Act is amended by striking out "under section 44" in the thirteenth line and inserting in lieu thereof "determined by the Board" and by striking out "subsection 45 (1)" in the fourteenth and fifteenth lines and inserting in lieu thereof "section 41".

2. Section 2 of the said Act is repealed and the following substituted therefor:

2. A reference in this Act to Schedule 1, 2, 3 or 4, is a reference to Schedule 1, 2, 3 or 4, as the case may be, in the regulations. Schedules

2a. Where the services of a worker are temporarily lent or hired out to another person by the person with whom the worker has entered into a contract of service, the latter is deemed to continue to be the employer of the worker while the worker is working for the other person. Seconded workers

3. Section 3 of the said Act is repealed and the following substituted therefor:

3.—(1) Where in any employment, to which this Part applies, personal injury by accident arising out of and in the course of employment is caused to a worker, the worker and the worker's dependants are entitled to benefits in the manner and to the extent provided under this Act. Compensation to worker and dependants

(2) Where a worker is entitled to compensation for loss of earnings because of an accident, the employer shall pay to or on behalf of the worker the wages and benefits that the worker would have earned for the day or shift on which the injury occurred as though the injury had not occurred. Wages for day of accident

(3) Where the accident arose out of the employment, unless the contrary is shown, it shall be presumed that it occurred in the course of the employment and, where the accident occurred in the course of the employment unless the contrary is shown, it shall be presumed that it arose out of the employment. Presumptions

(4) In determining any claim under this Act, the decision shall be made in accordance with the real merits and justice of the case and where it is not practicable to determine an issue because the evidence for or against the issue is approximately equal in weight, the issue shall be resolved in favour of the claimant. Decisions to favour claimant

(5) Where the worker has not been paid the wages and benefits prescribed by subsection (2), the Board shall pay to or on behalf of the worker the wages and benefits prescribed by subsection (2). Payment under subs. (2)

(6) Every employer who makes default in paying the wages and benefits prescribed by subsection (2) shall, in addition to any other penalty or liability, pay to the Board a sum equal to the amount of such wages and benefits and payment of such amount may be enforced in the same manner as the payment of an assessment may be enforced. Idem

4. Section 5, subsections 6 (8) and 9 (2), sections 20, 33, 52, 82 and 115 and subsections 121 (1) and 122 (11) of the said Act are amended by striking out “medical aid” wherever that expression occurs and inserting in lieu thereof in each instance “health care”.

5.—(1) Subsection 8 (1) of the said Act is amended by inserting after “employer” in the fourth line “or an executive officer thereof”.

(2) Subsection 8 (9) of the said Act is amended by inserting after “Schedule 1” in the fourth line “or any executive officer”.

(3) Subsections 8 (11) and (12) of the said Act are repealed and the following substituted therefor:

Damages

(11) In any action brought by a worker of an employer in Schedule 1 or dependant of such worker in any case within subsection (1) or maintained by the Board under subsection (4) and one or more of the persons found to be at fault or negligent is the employer of the worker in Schedule 1 or an executive officer thereof, or any other employer in Schedule 1, or an executive officer thereof, or any worker of any employer in Schedule 1, no damages, contribution or indemnity are recoverable for the portion of the loss or damage caused by the fault or negligence of such employer of the worker in Schedule 1 or an executive officer thereof, or of any other employer in Schedule 1 or executive officer thereof, or of any worker of any employer in Schedule 1, and the portion of the loss or damage so caused by the fault or negligence of such employer of the worker in Schedule 1 or an executive officer thereof, or of any other employer in Schedule 1 or an executive officer thereof, or of the worker of any employer in Schedule 1, shall be determined although such employer or executive officer or worker is not a party to the action.

Idem

(12) In any action brought by a worker of an employer in Schedule 2 or dependant of such worker in any case within subsection (1) or maintained by the employer of the worker under subsection (4) and one or more of the persons found to be at fault or negligent is the employer of the worker in Schedule 2 or an executive officer thereof, no damages, contribution or indemnity are recoverable for the portion of the loss or damage caused by the fault or negligence of such employer or executive officer and the portion of the loss or damage so caused by the fault or negligence of such employer or executive officer shall be determined although such employer or executive officer is not a party to the action.

6. Section 14 of the said Act is amended by inserting after “worker” in the fourth line “or any executive officer thereof”.

7. Section 15 of the said Act is repealed and the following substituted therefor:

15. Any party to an action may apply to the Appeals Tribunal for adjudication and determination of the question of the plaintiff's right to compensation under this Part, or as to whether the action is one the right to bring which is taken away by this Part, or whether the action is one in which the right to recover damages, contribution, or indemnity is limited by this Part, and such adjudication and determination is final and conclusive.

Determi-
nation
of right to
bring action

8. Sections 21 and 22 of the said Act are repealed.

9. Section 36 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 38, sections 1 and 2, is repealed and the following substituted therefor:

36.—(1) Where death results from an injury to a worker, a spouse who survives the worker shall be entitled to,

Compen-
sation
in case of
death

- (a) compensation payable by way of a lump sum of \$40,000 increased by the addition of \$1,000 for each year of age of the spouse under forty years at the time of the worker's death or reduced by the subtraction of \$1,000 for each year of age of the spouse over forty years at the time of the workers' death, but in no case shall a spouse receive a lump sum payment of more than \$60,000 or less than \$20,000;
- (b) compensation by way of periodic payments in the manner and to the extent provided in this section; and
- (c) the same counselling and vocational assistance as would be provided to a worker under section 54.

(2) Where a deceased worker is survived by a spouse and one or more children, compensation in an amount equal to 90 per cent of the deceased worker's net average earnings at the time of injury shall be payable to the spouse until the youngest child reaches the age of nineteen.

Spouse with
children

(3) Where the deceased worker is survived by a spouse and no child or children, the spouse shall be entitled to a periodic payment of 40 per cent of the net average earnings of the deceased worker adjusted by the addition of 1 per cent of the

Spouse,
no children

net average earnings for each year of age of the spouse over forty years at the time of the worker's death or by the subtraction of 1 per cent of the net average earnings for each year of age of the spouse under forty years at the time of the worker's death, but in no case shall the spouse receive a periodic payment of more than 60 per cent or less than 20 per cent of net average earnings of the deceased worker.

Dependent
children, no
spouse

(4) Where there is no spouse entitled to compensation or the spouse dies and the deceased worker,

- (a) is survived by only one dependent child, the dependent child is entitled to compensation equal to 30 per cent of the net average earnings of the deceased worker at the time of injury; or
- (b) is survived by more than one dependent child, the dependent children are entitled as a class to compensation equal to 30 per cent of the net average earnings of the deceased worker at the time of the injury, plus an additional amount of 10 per cent of the net average earnings of the deceased worker at the time of injury for each additional dependent child over one to a maximum of 90 per cent of the net average earnings.

Idem

(5) Where, at the time of the death of the worker, there is no spouse entitled to receive a lump sum payment under clause (1) (a), the worker's dependent child or children shall be entitled to receive in aggregate a total lump sum payment of \$40,000 in addition to the compensation payable under subsection (4).

Dependants,
no spouse or
children

(6) Where a deceased worker is not survived by a spouse or by a dependent child or children and there are dependants, the dependants are entitled to reasonable compensation proportionate to the loss occasioned to the dependants by the death as determined by the Board, but in no case shall the total compensation exceed 50 per cent of the net average earnings of the deceased worker at the time of injury, and the compensation shall be payable only so long as the worker could have been reasonably expected to continue to support the dependant or dependants as if the deceased worker had not suffered injury.

Burial
expenses

(7) Payment shall be made for the necessary expenses of burial or cremation of a deceased worker, as determined by the Board, which amount shall not be less than \$1,500, and, where owing to the circumstances of the case the body of a worker is transported for a considerable distance for burial or

cremation, a further sum, as determined by the Board, shall be paid for the necessary extra expenses so incurred.

(8) Subject to subsection (9), where compensation has been paid under subsection (2) and no child is under the age of nineteen years, the spouse shall be entitled to payment of compensation under subsection (3) as if the worker had died on the day after the day the youngest child then living reached the age of nineteen years.

Recalculation
of spousal
periodic
payments

(9) Where the Board is satisfied that it is advisable for a child or children over the age of nineteen to continue education, the Board shall pay in respect of each such child 10 per cent of the net average earnings of the worker at the time of the injury but the total benefit in respect of the spouse and such children shall not exceed 90 per cent of the net average earnings of the worker at the time of the injury.

Education of
children

(10) Subject to subsections (8), (9) and (12), a monthly payment in respect of a child shall cease when the child attains the age of nineteen years or when the Board is satisfied that it is not advisable for a child over the age of nineteen to continue receiving an education.

When child
payments
cease

(11) Where a child or children is or are entitled to compensation under this section and is or are being maintained by a suitable person who is acting *in loco parentis* in a manner the Board considers satisfactory, such person while so doing is entitled to receive the same periodic payments of compensation for himself or herself and the child or children as if the person were a spouse of the deceased and in such case the child's or children's part of such payments shall be in lieu of the periodic payments that the child or children would otherwise be entitled to receive and, where there is more than one child and more than one person acting *in loco parentis*, the Board may in its discretion apportion the payments under this section accordingly and, where this subsection applies, the maximum amount payable under this section shall not exceed 90 per cent of the net average earnings of the deceased worker at the time of death.

Person *in
loco parentis*

(12) Compensation is payable to an invalid child without regard to the age of the child and shall continue until the child ceases to be an invalid or dies.

Invalid
child

(13) In calculating the average earnings of a deceased worker for the purposes of paying compensation by way of periodic payments under this section, there shall be deducted from such earnings any payments received by way of any survivor's benefit under the Canada Pension Plan.

Deduction
for C.P.P.

Separated
spouse

(14) A person who ceased to be a spouse by reason of living separate and apart from the deceased worker at the time of the worker's death is entitled to compensation under this section as a spouse where the worker was or would have been required had the worker not died to make support, maintenance or alimony payments under a separation agreement or judicial order.



Idem

(15) Where there is more than one person entitled to receive periodic or lump sum payments under this section as a spouse and the periodic payments to those persons as provided in this section would in total exceed 90 per cent of the net average earnings of the deceased worker at the time of death and, or, the lump sum payments to these persons as provided in this section would in total exceed \$60,000, the total periodic payments shall be limited to 90 per cent of the net average earnings and the total lump sum payments shall be limited to \$60,000 and the Board shall apportion payments that are so limited between those entitled in accordance with,

- (a) the relative degrees of financial and emotional dependance on the deceased at the time of death;
- (b) the period of separation, if any, from the deceased at the time of death; and
- (c) the size of the relative entitlements to those so entitled without reference to this subsection.



10. Sections 37 and 38 of the said Act are repealed.

11. Sections 39, 40 and 41, section 42, as amended by the Statutes of Ontario, 1981, chapter 30, section 3, 1982, chapter 61, section 6 and 1983, chapter 45, section 3, section 43, as amended by the Statutes of Ontario, 1984, chapter 38, section 3, section 44, as re-enacted by the Statutes of Ontario, 1984, chapter 38, section 4, and section 45, as amended by the Statutes of Ontario, 1984, chapter 38, section 5, of the said Act are repealed and the following substituted therefor:

When
compensation
payable

39. Compensation for disability shall be computed and payable from and including the day following the day of the accident or from the date of the disability, whichever is the later.

Temporary
total
disability

40.—(1) Where injury to a worker results in temporary total disability, the worker is entitled to compensation under this Act in an amount equal to 90 per cent of the worker's net average earnings before the injury so long as temporary total disability continues.

(2) Where temporary partial disability results from the injury, the compensation payable shall be, Temporary partial disability

- (a) where the worker returns to employment, a weekly payment of 90 per cent of the difference between the net average weekly earnings of the worker before the injury and a net average amount that the worker is able to earn in some suitable employment or business after the injury; or
- (b) where the worker does not return to work, a weekly payment in the same amount as would be payable if the worker were temporarily totally disabled, unless the worker,
 - (i) fails to co-operate in or is not available for a medical or vocational rehabilitation program which would, in the Board's opinion, aid in getting the worker back to work, or
 - (ii) fails to accept or is not available for employment which is available and which in the opinion of the Board is suitable for the worker's capabilities.

(3) In determining the amount to be paid under clause (2) (b), the Board shall have regard to any payments the worker receives under the Canada Pension Plan, and where subclause (2) (b) (i) or (ii) applies, the compensation shall be a periodic amount proportionate to the degree of earnings impairment resulting from the injury as determined by the Board and subsection 45 (4) applies. Idem

41. For the purposes of this Act, the maximum amount of average earnings upon which the loss of earnings is to be calculated shall be at the rate of \$31,500 per annum. Maximum earnings

42.—(1) The minimum amount of compensation payable for temporary total disability shall be, Minimum compensation

- (a) \$10,500 per annum where the net average earnings of the worker at the time of the accident are equal to or exceed \$10,500 per annum; or
- (b) the net average earnings of the worker at the time of the accident where the net average earnings are less than \$10,500 per annum.

(2) The minimum amount of compensation payable for temporary partial disability shall be a proportionate amount of Idem

the minimum compensation payable under subsection (1) in accordance with the impairment of earning capacity.

Idem

(3) The minimum amount of compensation payable for permanent disability shall be computed in accordance with sections 41 and 45, but the amount of such compensation shall not be less than,

- (a) for permanent total disability in one claim, \$10,500 per annum; and
- (b) for permanent partial disability, an amount proportionate to that mentioned in clause (a) in accordance with the impairment of earning capacity.

Idem

(4) The minimum amount of compensation to which a spouse and child or children of a deceased worker are entitled under subsection 36 (2) shall be \$10,500 per annum.

Idem

(5) The minimum amount of compensation to which a spouse of a deceased worker is entitled under subsection 36 (3) shall be \$10,500 per annum multiplied by the percentage prescribed therein.

Idem

(6) The minimum amount of compensation to which a child or children of a deceased worker is or are entitled under subsection 36 (4) shall be \$10,500 per annum multiplied by the percentage prescribed therein.

Average
earnings

43.—(1) In determining the average earnings of a worker, the Board shall,

- (a) calculate the daily or hourly rate of the worker's earnings with the employer for whom the worker worked at the time of accident as is best calculated to give the rate per week at which the worker was remunerated at the time of the accident;
- (b) if the calculation under clause (a) does not fairly represent the average earnings of the worker, upon application, the Board shall determine the worker's average earnings with the employer for whom the worker worked at the time of the accident during the twelve months or such lesser period immediately preceding the accident when the worker was employed with the employer.

Idem

(2) Where owing to the shortness of the time during which the worker was in the employment of the employer or the casual nature of the employment or where it is impractical to cal-

culate the average earnings at the time of the accident, regard may be had to the average earnings that during the twelve months prior to the accident was being earned by a person in the same grade employed at the same work by the same employer or, if there is no person so employed, then by a person in the same grade employed in the same class of employment in the same locality.

(3) Where the worker has entered into concurrent contracts of service with two or more employers under which the worker worked at one time for one of them and at another time for another of them, the worker's average earnings shall be calculated on the basis of what the worker probably would have been earning if the worker had been employed solely in the employment of the employer for whom the worker was working at the time of the accident. Idem

(4) For the purposes of subsection (2), "employed at the same work by the same employer" means employment by the same employer in the grade in which the worker was employed at the time of the accident uninterrupted by absence from work due to illness or any other unavoidable cause. Interpretation

(5) Where the employer was accustomed to paying the worker a sum to cover any special expenses entailed on the worker by the nature of the employment, that sum shall not be reckoned as part of the worker's earnings. Special expenses

(6) Where a worker is an apprentice or in the course of learning a trade, occupation, profession or calling and the worker's remuneration is of a nominal nature, the Board may for the purposes of this Act determine the worker's average earnings at the time of the accident at an amount it considers fair and equitable having regard to the average earnings of a fully qualified person engaged in the same trade, occupation, profession or calling, and the employer of the worker is liable to pay its assessment to the Board on the earnings so determined. Learners

(7) Where a worker, who has become entitled to benefits under this Act and has returned to employment, becomes entitled to payment for temporary disability by reason of any matter arising out of the original accident, the compensation payable for such temporary disability shall be paid on either the average earnings at the date of the accident or the average earnings at the date of the most recent employment of the worker, calculated in accordance with this Act, whichever is the greater. Further benefits

Net average
earnings

44.—(1) The net average earnings of a worker shall be determined by the Board by deducting from the earnings of a worker,

- (a) the probable income tax payable by the worker on the worker's earnings;
- (b) the probable Canada Pension Plan premiums payable by the worker; and
- (c) the probable unemployment insurance premiums payable by the worker.

Idem

(2) The Board shall on the 1st day of January in each year establish a schedule setting forth a table of net average earnings based upon the provisions of this section and such schedule shall be deemed conclusive and final.

Permanent
disability

45.—(1) Where permanent disability results from the injury, the impairment of earning capacity of the worker shall be estimated from the nature and degree of the injury, and the compensation shall be a weekly or other periodic payment during the lifetime of the worker, or such other period as the Board may fix, of a sum proportionate to such impairment not exceeding in any case the like proportion of 90 per cent of the worker's net average earnings.

Idem

(2) Compensation for permanent disability is payable whether or not an award is made for temporary disability.

Idem

(3) The Board may compile a rating schedule of percentages of impairment of earning capacity for specified injuries or mutilations that may be used as a guide in determining the compensation payable in permanent disability cases.

Lump sum

(4) Where the impairment of the earning capacity of the worker does not exceed 10 per cent of the worker's earning capacity, instead of a weekly or other periodic payment, the Board shall, unless in the opinion of the Board it would not be to the advantage of the worker to do so, direct that such lump sum as may be considered to be the equivalent of the periodic payment shall be paid to the worker.

Supplement

(5) Notwithstanding subsection (1), where the impairment of the earning capacity of the worker is significantly greater than is usual for the nature and degree of the injury, the Board may supplement the amount awarded for permanent partial disability for such period as the Board may fix unless the worker,

- (a) fails to co-operate in or is not available for a medical or vocational rehabilitation program which would, in the Board's opinion, aid in getting the worker back to work; or
- (b) fails to accept or is not available for employment which is available and which in the opinion of the Board is suitable for the worker's capabilities.

(6) In calculating the amount of the supplement under subsection (5), the Board shall have regard to the difference between the net average earnings of the worker before the accident and the net average earnings after the accident and the compensation shall be a weekly or other periodic payment of 90 per cent of the difference but the sum total of such supplement and the award under subsection (1) shall not exceed the like proportion of 90 per cent of the worker's pre-accident net average earnings and the Board shall have regard to the effect of inflation on the pre-accident earnings rate and to any payments the worker receives under the Canada Pension Plan. Idem

(7) Notwithstanding subsections (1) and (5), where the impairment of earnings capacity for an older worker is significantly greater than is usual for the nature and degree of the worker's injury and, where in the opinion of the Board, the worker can not return to work and is unlikely to benefit from a vocational rehabilitation program which would lead to employment, the Board may supplement the amount awarded for permanent partial disability with an amount not exceeding the old age security benefits that would be payable under section 3 of the *Old Age Security Act* (Canada), and amendments thereto, as if the worker were eligible therefor, and such supplement may continue until the worker is eligible for such old age security benefits or until the worker returns to employment. Older workers
R.S.C. 1970,
c. 0-6

(8) A supplement awarded under subsection (7) shall be a weekly or other periodic payment and the total sum of such supplement and the award under subsection (1) shall not exceed the like proportion of 90 per cent of the worker's pre-accident net average earnings and, in calculating the amount of the supplement, the Board shall have regard to the effect of inflation on the pre-accident earnings rate and to any payments the worker receives under the Canada Pension Plan. Idem

(9) Notwithstanding subsection 40 (3) or subsection (6) or (8) of this section, the fact that a worker is receiving payments under the Canada Pension Plan shall not be a bar to receiving payments under clause 40 (2) (b) or subsection (5) or (7) of this section. Effect of
C.P.P.

Permanent
disfigurement

(10) Notwithstanding subsection (1), where the worker is seriously and permanently disfigured about the face or head, the Board may allow a lump sum in compensation therefor.

Dependants

(11) Where, at the time of a worker's death, the worker was in receipt of an award for permanent disability which the Board has rated at 100 per cent or, but for the death, would have been in receipt of an award for permanent disability at the rate of 100 per cent, a dependant of the worker is entitled to compensation from the time of the worker's death as if the death of the worker had resulted from the compensable disability for which the worker received or would have received the permanent disability award.

Interpretation

(12) For the purposes of this section, "permanent disability" means any physical or functional abnormality or loss, and any psychological damage arising from such abnormality or loss, after maximal medical rehabilitation has been achieved.

12. Section 49 of the said Act is repealed.

13. Section 50 of the said Act is repealed and the following substituted therefor:

Family
support

50.—(1) Where a worker is entitled to compensation and the worker's spouse or the worker's child or children under the age of nineteen is or are entitled to support or maintenance under the order of a court that in the opinion of the Board is enforceable in Ontario, the Board shall divert the compensation in accordance with the court order to the extent that there is default made under the order after this section comes into force.

Interpretation
R.S.O. 1980,
c. 152

(2) In this section, "spouse" means a spouse as defined in Part II of the *Family Law Reform Act*.

14. Subsection 55 (2) of the said Act is repealed and the following substituted therefor:

R.S.O. 1980,
c. 95 not to
apply

(2) The *Corporations Act* does not apply to the corporation and, subject to the provisions of this Act, the corporation shall have the capacity and powers of a natural person.

15.—(1) Sections 56, 57 and 58 of the said Act are repealed and the following substituted therefor:

Board of
directors

56.—(1) There shall be constituted for the management and government of the corporation and for the exercise of the powers and performance of the duties of the Board under this or any other Act a board of directors the members of which

shall be appointed by the Lieutenant Governor in Council and which shall consist of a full-time chairman, full-time vice-chairman of administration and not less than five and not more than nine part-time members who shall be representative of employers, workers, professional persons and the public.

(2) The chairman of the Appeals Tribunal shall be a member *ex officio* of the board of directors but shall not vote on any matter. *Ex officio member*

(2) The terms of office of the commissioners of the Workers' Compensation Board, except the chairman and the vice-chairman of administration, in office immediately before the coming into force of this section are terminated.

16. Section 59 of the said Act is amended by striking out "commissioners" in the first and second lines and inserting in lieu thereof "directors".

17. Sections 60, 61 and 62 of the said Act are repealed.

18. Subsections 63 (3) and (4) of the said Act are repealed.

19. Section 64 of the said Act is repealed and the following substituted therefor:

64.—(1) In the absence of the chairman from Ontario, the chairman's inability to act, or where the office of chairman is vacant, the chairman's duties shall be performed by the vice-chairman of administration. *Where vice-chairman of administration may act*

(2) Wherever it appears that the vice-chairman acted for and instead of the chairman, it shall be conclusively presumed that the vice-chairman has so acted in the absence, disability or vacancy in the office of the chairman. *Presumption where vice-chairman acts*

20.—(1) Subsection 65 (1) of the said Act is amended by striking out "A commissioner" in the first line and inserting in lieu thereof "The chairman, the vice-chairman of administration and the chairman of the Appeals Tribunal".

(2) Subsection 65 (2) of the said Act is amended by striking out "a commissioner" in the third line and inserting in lieu thereof "the chairman, the vice-chairman of administration or the chairman of the Appeals Tribunal".

21. Section 66 of the said Act is repealed.

22. Subsection 67 (2) of the said Act is repealed and the following substituted therefor:

Place of
meeting

(2) The board of directors may meet or hold meetings in any place in Ontario as is considered convenient.

23. Subsection 68 (2) of the said Act is amended by striking out "commissioner" in the second line and inserting in lieu thereof "director".

24.—(1) Subsection 71 (2) of the said Act is repealed and the following substituted therefor:

Quorum

(2) A majority of the members of the board of directors for the time being, one of whom must be the chairman or vice-chairman of administration, constitutes a quorum for the transaction of business at meetings of the Board and a decision of a majority is the decision of the board of directors.

(2) Clause 71 (3) (g) of the said Act is amended by striking out "and" at the end thereof.

(3) Clause 71 (3) (h) of the said Act is repealed and the following substituted therefor:

- (h) enter into agreements with the government of Canada or any province or territory in Canada, or the appropriate authority thereof, providing for co-operation in matters relating to compensation for or rehabilitation of workers disabled by injuries arising out of and in the course of employment;
- (i) subject to the approval of the Lieutenant Governor in Council enter into agreements with any state, government or authority outside Canada providing for co-operation in matters relating to compensation for or rehabilitation of workers disabled by injuries arising out of and in the course of employment; and
- (j) undertake and carry on such investigations, research and training and make grants to individuals, institutions and organizations for investigations, research and training in such amounts and upon such terms and conditions as the Board considers acceptable.

(4) Section 71 of the said Act is amended by adding thereto the following subsection:

Delegation

(4) The board of directors may delegate in writing any of the Board's powers or duties, subject to such limitations, con-

ditions and requirements as are set out in the delegation, to any director, officer or employee of the Board who may act in the place and stead of the board of directors and when a delegate acts in the place and stead of the board of directors, it shall be presumed conclusively that the delegate acted in accordance with the delegation.

25. Subsection 72 (1) of the said Act is amended by striking out “the approval of the Lieutenant Governor in Council” in the third line and inserting in lieu thereof “such guidelines as may be established by the Management Board of Cabinet” and by striking out “approved” in the tenth line and inserting in lieu thereof “established by the chairman”.

26.—(1) Subsection 74 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 61, section 12, is amended by striking out “an employee or commissioner” in the third and fourth lines and inserting in lieu thereof “a full-time member of the board of directors or an employee of the Board”.

(2) Clause 74 (2) (a) of the said Act is amended by striking out “commissioners” in the second line and inserting in lieu thereof “full-time members of the board of directors”.

(3) Subsection 74 (6) of the said Act is amended by striking out “commissioner” in the first line and inserting in lieu thereof “full-time member of the board of directors”.

27.—(1) Subsection 75 (1) of the said Act is amended by adding at the commencement thereof “Except as provided by this Act”.

(2) Subsection 75 (2) of the said Act is amended by adding thereto the following clauses:

(l) the net average earnings of a worker;

(m) whether a person is a spouse or child.

(3) Section 75 of the said Act is amended by adding thereto the following subsections:

(3) A worker who has made a claim for compensation or to whom compensation is payable under this Act shall, if requested by the Board, submit to a medical examination by a medical practitioner named by the Board.

Medical
examination

(4) If a worker contravenes subsection (3) or in any way obstructs an examination without reasonable cause or excuse,

Failure to
be examined

the worker's right to compensation or to a decision by the Board may be suspended by the Board until the examination has taken place.

28. Sections 77 and 78 of the said Act are repealed and the following substituted therefor:

Access to
records by
worker

77.—(1) Subject to subsection (2), where there is an issue in dispute, upon request, the Board shall give a worker, or if deceased, the persons who may be entitled to benefits under section 36, full access to and copies of the Board's file and records respecting the claim and the Board shall provide like access and copies to a representative of the worker upon presentation of a written authorization for that purpose signed by the worker, or if deceased, signed by a person who may be entitled to benefits under section 36.

Medical
information

(2) Where the file or a record respecting the claim, in the opinion of the Board, contains medical or other information that would be harmful to the worker, if given to the worker, the Board shall provide copies of such medical information to the worker's treating physician instead of the worker or the worker's representative and advise the worker or the representative that it has done so.

Access to
records by
employer

(3) Where there is an issue in dispute, upon request, the Board shall grant the employer access to copies of only those records of the Board that the Board considers to be relevant to the issue or issues in dispute and the Board shall provide like access and copies to a representative of the employer upon presentation of written authorization for that purpose signed by the employer.

Idem

(4) Where the employer or the employer's representative is given access to and copies of records referred to in subsection (3), the worker or worker's representative shall be informed of the access to and copies of records so given.

Idem

(5) Before granting access to the employer to medical reports and opinions under subsection (3), the Board shall notify the worker or claimant for compensation of the medical reports or opinions it considers relevant and permit written objections to be made within such time as may be specified in the notice before granting access to the employer and, after considering the objections, the Board may refuse access to the reports and opinions or may permit access thereto with or without conditions.

Appeal

(6) A worker, employer or party of record may appeal a decision of the Board made under this section within

twenty-one days of the mailing of the Board's decision and no access to or copies of the Board's records shall be provided until the expiry of the twenty-one day period or until the Appeals Tribunal gives its decision, whichever is later.



(7) No employer or employer's representative who obtains access to copies of any of the records of the Board shall disclose any medical information obtained therefrom except in a form calculated to prevent the information from being identified with a particular worker or case.

Information
confidential

(8) Every employer and employer's representative who contravenes subsection (7) is guilty of an offence.



Offence

29.—(1) Section 79 of the said Act is amended by striking out “appeals” in the second line.

(2) Section 79 of the said Act is further amended by adding thereto the following subsection:

(2) Every decision of the Board and the reasons therefor shall be communicated promptly in writing to the parties of record.

Decisions
to be
communicated

30. Clause 81 (c) of the said Act is amended by inserting after “worker” in the first line “spouse, child or”.

31.—(1) Subsection 83 (1) of the said Act is amended by striking out “commissioner of the Board, or any other commissioner” in the first and second lines and inserting in lieu thereof “member of the board of directors”.

(2) Subsection 83 (2) of the said Act is amended by striking out “commissioner thereof or any other commissioner” in the first and second lines and inserting in lieu thereof “member of the board of directors”.

(3) Subsection 83 (3) of the said Act is amended by striking out “commissioner thereof or any other commissioner” in the second line and inserting in lieu thereof “member of the board of directors”.

(4) Subsection 83 (4) of the said Act is amended by striking out “commissioner thereof or any other commissioner” in the third and fourth lines and inserting in lieu thereof “member of the board of directors”.

32. The said Act is amended by adding thereto the following sections:

Appeals
Tribunal
established

86a. There is hereby constituted a tribunal to be known as the "Workers' Compensation Appeals Tribunal".

Composition
of Appeals
Tribunal

86b.—(1) The Lieutenant Governor in Council shall appoint a chairman of the Appeals Tribunal, one or more vice-chairmen of the Appeals Tribunal and as many members of the Appeals Tribunal, equal in number, representative of employers and workers, respectively, as is considered appropriate.

Remuneration

(2) The remuneration, benefits and allowances of the members of the Appeals Tribunal shall be determined by the Lieutenant Governor in Council.

Officers
and
employees
R.S.O. 1980,
c. 180

(3) The chairman of the Appeals Tribunal, subject to such guidelines as may be established by the Management Board of Cabinet and subject to the provisions of the *Crown Employees Collective Bargaining Act*, may establish job classifications, personnel qualifications and salary ranges for officers and employees of the Appeals Tribunal, and the chairman may appoint, promote and employ the same in conformity with the classifications, qualifications and salary ranges so established by the chairman.

Super-
annuation

(4) For the purposes of section 74 only, every full-time member of the Appeals Tribunal and every person appointed under subsection (3) to full-time employment shall be deemed to be an employee of the Board.

Recovery of
costs and
expenses

(5) The costs and expenses associated with the administration of the Appeals Tribunal, including the remuneration and expenses of its members, officers and employees, shall form part of the administration expenses of the Board.

Chairman

86c.—(1) The chairman of the Appeals Tribunal is its chief executive officer and shall preside at its meetings and upon all panels of the Appeals Tribunal of which the chairman is a member.

When vice-
chairman
may act

(2) In the absence from Ontario of the chairman, the chairman's inability to act or where the office is vacant, the chairman's duties shall be performed by a vice-chairman designated to act by the chairman or, where the chairman has failed so to designate, by a vice-chairman designated to act by the Minister of Labour.

Presumption
where vice-
chairman acts

(3) Whenever it appears that a vice-chairman has acted for and instead of the chairman, it shall be presumed that the vice-chairman has so acted in the absence or disability of the

chairman or because of a vacancy in the office of the chairman.

86d.—(1) A quorum shall consist of the chairman of the Appeals Tribunal or a vice-chairman of the Appeals Tribunal designated by the chairman to act in place of the chairman and not less than two members of the Appeals Tribunal to be equal in number and representative of employers and workers. Quorum

(2) A quorum may exercise all the jurisdiction and powers of the Appeals Tribunal. Idem

(3) The decision of the majority of the quorum present and constituting the Appeals Tribunal is the decision thereof, but, if there is no majority vote, the decision of the chairman or the vice-chairman governs. Deciding vote

86e.—(1) The chairman of the Appeals Tribunal may establish panels of the Appeals Tribunal and a panel has all the jurisdiction and powers of the Appeals Tribunal. Panels

(2) A panel of the Appeals Tribunal shall consist of three members as follows: Composition

1. The chairman or a vice-chairman of the Appeals Tribunal.
2. One member of the Appeals Tribunal representative of employers.
3. One member of the Appeals Tribunal representative of workers.

(3) The decision of the majority of a panel consisting of three persons is the decision of the Appeals Tribunal. Deciding vote

86f. Where the chairman, a vice-chairman or other member of the Appeals Tribunal resigns or the term of office expires, the person may carry out and complete any duties or responsibilities that the person would have had if the person had not resigned or the person's term had not expired in respect of any application, proceeding or matter in which the person participated. Effect of resignation, expiry of term

86g.—(1) Subject to section 86n, the Appeals Tribunal has exclusive jurisdiction to hear, determine and dispose of, Jurisdiction

- (a) any matter or issue expressly conferred upon it by this Act;

- (b) all appeals from decisions, orders or rulings of the Board respecting the provision of health care, vocational rehabilitation or entitlement to compensation or benefits under this Act; and
- (c) all appeals respecting assessments, penalties or the transfer of costs,

and subsection 75 (2) applies with necessary modifications where a matter referred to in that subsection is raised in an appeal.

Idem

(2) The Appeals Tribunal shall not hear, determine or dispose of an appeal from a decision, order or ruling of the Board unless the procedures established by the Board for consideration of issues respecting the matters mentioned in clause (1) (b) or (c) have been exhausted, and the Board has made a final decision, order or ruling thereon.

Idem

(3) The Appeals Tribunal may make any order or direction that may be made by the Board and the order or direction of the Appeals Tribunal or a panel thereof is final and conclusive and not open to question or review in any court upon any grounds and no proceedings by or before the Appeals Tribunal or a panel thereof shall be restrained by injunction, prohibition or other process or proceeding in any court or be removable by application for judicial review, or otherwise, into any court.

Panel of
medical
practitioners

86h.—(1) The Lieutenant Governor in Council, after requesting and considering the views of representatives of employers, workers and physicians, shall appoint qualified medical practitioners, other than practitioners appointed under subsection 72 (1) or 86b (3), to a list and the Appeals Tribunal may obtain the assistance of one or more of them in such way and at such time or times as it thinks fit so as to better enable it to determine any matter of fact in question in any application, appeal or proceeding.

Remuneration

(2) The chairman of the Appeals Tribunal may fix the remuneration of a medical practitioner who provides assistance to the Appeals Tribunal under this section and the remuneration shall be part of the administrative expenses of the Board.

Limitations

(3) A medical practitioner shall not be asked, except with the written consent of the parties of record, to assist the Appeals Tribunal in any application, appeal or proceeding where the practitioner,

- (a) has examined the worker whose claim is the subject-matter of the application, appeal or proceeding;
- (b) has treated the worker or a member of the family of the worker;
- (c) has acted as a consultant in the treatment of the worker or as a consultant to the employer; or
- (d) is a partner of a practitioner mentioned in clause (a), (b) or (c).

(4) The Appeals Tribunal has power to authorize the chairman or a vice-chairman to inquire into applications by way of appeal under clause 86g (1) (b) to determine whether an issue involves a decision of the Board upon a medical report or opinion and, if such is the case, the person making the inquiry may, before the appeal is heard by the Appeals Tribunal, require that the worker submit to an examination by one or more medical practitioners appointed under subsection (1) who shall report, in writing, to the Appeals Tribunal thereon.

Pre-hearing
inquiry

(5) The Appeals Tribunal shall, upon receiving the report of the medical practitioner or practitioners, send a copy thereof to the parties to the appeal for the purpose of receiving their submissions thereon.

Copies of
report

(6) Nothing in subsection (4) limits the right of the Appeals Tribunal to exercise its powers under subsection (1) during the hearing of an appeal.

Powers not
affected

(7) If a worker is required by the Appeals Tribunal to submit to an examination by one or more medical practitioners who provide assistance to the Appeals Tribunal under this section and the worker does not submit to the examination or in any way obstructs the examination, the worker's right to compensation or to a final decision by the Appeals Tribunal may be suspended by the Appeals Tribunal.

Failure to
be examined

86i. Section 83 applies with necessary modifications to the chairman, vice-chairmen and other members of the Appeals Tribunal, to all officers and employees of the Appeals Tribunal and any person engaged by the Appeals Tribunal to conduct an examination, test or inquiry, or authorized to perform any function under this Act.

Application
of s. 83

86j.—(1) Upon receipt of a notice of appeal, the Appeals Tribunal shall, as soon as practicable, notify the Board and the parties of record of the appeal and the issue or issues in respect of which the appeal is brought and shall furnish the

Notice

same with copies of any written submissions made with respect thereto.

Payments
pending
appeal

(2) Any periodic payments to be paid under a decision of the Board shall be paid notwithstanding that an appeal is taken therefrom and any amounts paid may be dealt with as the Appeals Tribunal shall direct.

Transmission
of records

(3) Upon receipt of a notice under subsection (1), the Board shall forthwith transmit the Board's records related to the appeal to the chairman of the Appeals Tribunal.

Rules

86k. The Appeals Tribunal shall determine its own practice and procedure and may, subject to the approval of the Lieutenant Governor in Council, make rules governing its practice and procedure and the exercise of its powers in respect thereto, and may prescribe such forms as it considers necessary.

Powers of
Appeals
Tribunal

86l.—(1) The Appeals Tribunal may confirm, vary, reverse or uphold any decision of the Board under appeal.

Communi-
cation
of decisions

(2) Every decision of the Appeals Tribunal and the reasons therefor shall be communicated promptly in writing to the Board and the parties of record.

Application
of certain
sections

86m. Sections 76, 80 and 81 apply with necessary modifications to the Appeals Tribunal as if a reference to the Board were a reference to the Appeals Tribunal.

Determi-
nation
of issues by
Board

86n.—(1) Where a decision of the Appeals Tribunal turns upon an interpretation of the policy and general law of this Act, the board of directors of the Board may, in its discretion, stay the enforcement or execution of the order of the Appeals Tribunal, review and determine the issue of interpretation of the policy and general law of this Act and direct the Appeals Tribunal to reconsider the matter in light of the determination of the board of directors.

Idem

(2) The board of directors of the Board may, in its discretion where it considers it desirable to do so, hold a hearing upon a review under subsection (1), except that whether or not the board of directors holds a hearing, it is not required to give reasons for its determination and notwithstanding any rule of law, it is not required to hold any hearing before making any determination.

Appeals

86o.—(1) An appeal to the Appeals Tribunal lies from a decision of the Board with respect to the matters referred to in clauses 86g(1) (b) and (c).

(2) With the leave of the Appeals Tribunal, a decision of a panel of the Board made before this section comes into force may be appealed to the Appeals Tribunal. Transition

(3) Leave to appeal a decision to which subsection (2) applies shall not be granted unless, Idem

- (a) there is substantial new evidence which was unavailable at the time of the hearing by the panel; or
- (b) there appears to the Appeals Tribunal to be good reason to doubt the correctness of the decision.

86p.—(1) There is hereby constituted a panel to be known as the Industrial Disease Standards Panel. Industrial
Disease
Standards
Panel

(2) The Panel shall be composed of not more than nine members including persons representative of the public and of the scientific community and technical and professional persons. Composition

(3) The members of the Panel shall be appointed by the Lieutenant Governor in Council one of whom shall be designated by the Lieutenant Governor in Council as chairman of the Panel and one of whom shall be designated by the Lieutenant Governor in Council as vice-chairman. Idem

(4) The remuneration, benefits and allowances of the members of the Panel shall be determined by the Lieutenant Governor in Council. Remuneration

(5) The chairman of the Panel, subject to such guidelines as may be established by the Management Board of Cabinet and subject to the provisions of the *Crown Employees Collective Bargaining Act*, may establish job classifications, personnel qualifications and salary ranges for officers and employees of the Panel, and the chairman may appoint, promote and employ the same in conformity with the classifications, qualifications and salary ranges so established by the chairman. Officers and
employees
R.S.O. 1980,
c. 108

(6) The costs and expenses associated with the administration of the Panel, including the remuneration and expenses of its members, officers and employees, shall be paid by the Ministry of Labour and shall be chargeable by the Ministry to the Board and the costs and expenses shall form part of the administrative expenses of the Board. Recovery of
costs and
expenses

(7) It shall be the function of the Panel, Functions

- (a) to investigate possible industrial diseases;

- (b) to make findings as to whether a probable connection exists between a disease and an industrial process, trade or occupation in Ontario;
- (c) to create, develop and revise criteria for the evaluation of claims respecting industrial diseases; and
- (d) to advise on eligibility rules regarding compensation for claims respecting industrial diseases.

Special
panels

(8) The Panel may establish special panels to investigate matters arising out of its functions under subsection (7) and may appoint *ad hoc* members who are specialists in particular diseases and in industrial processes to such special panels which shall report thereon to the Panel.

Practice and
procedure

R.S.O. 1980,
c. 484

(9) The Panel shall determine its own priorities, practice and procedure and shall not be subject to or affected in any way by the *Statutory Powers Procedure Act*, or by any rules made under it.

Report to
Board

(10) The Panel shall report its findings to the Board.

Notice of
findings

(11) Before accepting or rejecting any findings of the Panel, the Board shall publish in *The Ontario Gazette* a notice setting forth the nature of the findings and calling for comments, briefs and submissions thereon to be filed with the Board within sixty days of the publication of the notice or within such longer period as the Board may specify in the notice.

Acceptance

(12) Upon the expiry of the period allowed for the filing under subsection (11), the Board may accept the findings of the Panel with or without amendments or may reject the findings.

Idem

(13) Where the findings of the Panel are accepted under subsection (12) with amendments or rejected, the Board need not give any further notice under subsection (11).

Publication
of findings

(14) Where the Board accepts or rejects the findings of the Panel, notice of the Board's acceptance or rejection, with reasons therefor, shall be published in *The Ontario Gazette*.

Annual
report

(15) The Panel shall, after the close of each year, file with the Minister of Labour an annual report upon the affairs of the Panel, and the Minister shall cause a copy of the report to be laid before the Assembly if it is in session or, if not, at the next ensuing session.

➡ **86q.**—(1) The Minister of Labour shall establish an office to be available to any person who is or has been a claimant for benefits under this Act and the office shall be known as the “Office of the Worker Adviser”. Office of
Worker
Adviser

(2) The Minister shall pay such remuneration and expenses as may be required to carry out such functions as may be assigned to the Office of the Worker Adviser by the Minister. Idem

(3) The Board shall reimburse the Minister for the remuneration and expenses referred to in subsection (2). Idem ⬆

86r.—(1) The Minister of Labour shall establish an office to be known as the “Office of the Employer Adviser” and shall pay such remuneration and expenses as may be required to carry out such functions as may be assigned to it by the Minister. Office of
Employer
Adviser

(2) The Board shall reimburse the Minister for the remuneration and expenses referred to in subsection (1). Idem

➡ **86s.** Services under this Act shall, where appropriate, be made available in the French language. French
language
services ⬆

33. Section 113 of the said Act is amended by striking out “*Trustee Act*” in the eighth line and inserting in lieu thereof “*Pension Benefits Act*”.

34.—(1) Subsection 122 (9) of the said Act is repealed and the following substituted therefor:

(9) If the worker at or before the date of the disablement was employed in any process mentioned in the second column of Schedule 3 and the disease contracted is the disease in the first column of the Schedule set out opposite to the description of the process, the disease shall be deemed to have been due to the nature of that employment unless the contrary is proved. Presumption

(9a) If the worker at or before the date of the disablement was employed in any process mentioned in the second column of Schedule 4 and the disease contracted is the disease in the first column of the Schedule set out opposite to the description of the process, the disease shall be conclusively deemed to have been due to the nature of the employment. Idem

(2) Subsection 122 (12) of the said Act is repealed and the following substituted therefor:

Agreements
for cost
sharing

(12) Notwithstanding any other provision of this Act, the Board may enter into an agreement with the appropriate authority in any jurisdiction in Canada to provide for the apportionment of the costs of the claims for industrial diseases for workers who have had exposure employment in more than one Canadian jurisdiction.

(3) Subsection 122 (16) of the said Act is amended by inserting after "3" in the third line "or 4".

35. Section 125 of the said Act is amended by adding thereto the following subsections:

Investments

R.S.O. 1980,
c. 373

Special
funds

(2) The payments and deposits referred to in sections 29 and 33 shall be invested in any such securities as a trustee may invest in under the *Pension Benefits Act*.

(3) The Board, where it considers proper, may add to the amount payable by an employer under subsection (1) a percentage or sum for the purpose of raising special funds and the Board may use such moneys to meet a loss or relieve any employer in Schedule 2 from all or part of the costs arising from any disaster or other circumstance where, in the opinion of the Board, it is proper to do so.

36. Section 131 of the said Act is repealed and the following substituted therefor:

Domestics

131. This Part does not apply to domestics or their employers to whom Part I applies.

37. The said Act is further amended by adding thereto the following Part:

PART III

Transition

132. Subject to this Part, this Act, as it read immediately before the coming into force of this section, continues to apply to personal injury by accident and to an industrial disease where the accident or disease occurred before the day this section comes into force, and to death resulting from injury or industrial disease where the death occurred before the coming into force of this section.

Repeals

133.—(1) Sections 21, 22, 42 and 49 of this Act, as continued by section 132, are repealed.

Temporary
disability
adjustment

(2) Where a worker is in receipt of temporary disability benefits on the day this section comes into force, the Board shall adjust the rate of compensation by adding thereto an

additional 5 per cent but the compensation rate resulting from the adjustment shall not exceed the maximum established by sections 39 and 45, as continued by section 132.

134. Section 40 of this Act, as continued by section 132, is repealed and following substituted therefor: s. 40,
re-enacted

40. Where a worker, who has become entitled to benefits under this Act and has returned to employment, becomes entitled to payment for temporary disability by reason of any matter arising out of the original accident, the compensation payable for such temporary disability shall be paid on either the average weekly earnings at the date of the accident or the average weekly earnings at the date of the most recent employment of the worker calculated in the manner set out in section 39, whichever is the greater. Temporary
disability
subsequent
to permanent
disability

135. Subsection 41 (2) of this Act, as continued by section 132, is repealed and the following substituted therefor: s. 41 (2),
re-enacted

(2) In determining the amount to be paid under clause (1) (b), the Board shall have regard to any payments the worker receives under the Canada Pension Plan, and where subclause (1) (b) (i) or (ii) applies, the compensation shall be a periodic amount proportionate to the degree of earnings impairment resulting from the injury as determined by the Board and subsection 43 (4) applies. Idem

136. Subsection 43 (5) of this Act, as continued by section 132, is repealed and the following substituted therefor: s. 43 (5),
re-enacted

(5) Notwithstanding subsection (1), where the impairment of earning capacity of the worker is significantly greater than is usual for the nature and degree of injury, the Board may supplement the amount awarded for permanent partial disability for such period as the Board may fix unless the worker, Periodic
payments

- (a) fails to co-operate in or is not available for a medical or vocational rehabilitation program which would, in the Board's opinion, aid in getting the worker back to work; or
- (b) fails to accept or is not available for employment which is available and which in the opinion of the Board is suitable for the worker's capabilities.

(5a) In calculating the amount of the supplement under subsection (5), the Board shall have regard to the difference between the average earnings of the worker before the accident and the average earnings after the accident and the com- Idem

pensation shall be a weekly or other periodic payment of 75 per cent of the difference, but the total of such supplement and the award under subsection (1) shall not exceed the like proportion of 75 per cent of the worker's pre-accident average earnings, and the Board shall have regard to the effect of inflation on the pre-accident earnings rate and to any payments the worker receives under the Canada Pension Plan.

Older
workers

(5b) Notwithstanding subsections (1) and (5), where the impairment of earnings capacity for an older worker is significantly greater than is usual for the nature and degree of the worker's injury and, where in the opinion of the Board, the worker can not return to work and is unlikely to benefit from a vocational rehabilitation program which would lead to employment, the Board may supplement the amount awarded for permanent partial disability with an amount not exceeding the old age security benefits that would be payable under section 3 of the *Old Age Security Act* (Canada), and amendments thereto, as if the worker were eligible therefor, and such supplement may continue until the worker is eligible for such old age security benefits or until the worker returns to employment.

R.S.C. 1970,
c. 0-6

Idem

(5c) A supplement awarded under subsection (5b) shall be a weekly or other periodic payment and the total sum of such supplement and the award under subsection (1) shall not exceed the like proportion of 75 per cent of the worker's pre-accident average earnings and, in calculating the amount of the supplement, the Board shall have regard to any payments the worker receives under the Canada Pension Plan.

Effect of
C.P.P.

(5d) Notwithstanding subsection (5a) or (5c), the fact that a worker is receiving payments under the Canada Pension Plan shall not be a bar to receiving a supplement under subsections (5) or (5b).

Application
of
certain
sections
1984, c. ...

137. Section 50 and sections 55 to 86s of this Act, as amended, repealed, enacted or re-enacted by sections 13 to 32 of the *Workers' Compensation Amendment Act, 1984*, apply to this Act, as continued by section 132.

R.S.O. 1980,
c. 539

38. Where an application or appeal has been heard by the Board or a panel thereof pursuant to sections 75 and 77 of the *Workers' Compensation Act*, as those sections read immediately prior to the coming into force of this section, and a final decision or action thereon has not been made or taken before the day this section comes into force, the Board or a panel thereof may carry out and complete any duties or responsibilities and exercise any powers in connection with the application or appeal as though this Act had not been enacted.

39. Clause 9 (b) of the *Human Rights Code, 1981*, being chapter 53, is amended by striking out “or” at the end of subclause (iii), by adding “or” at the end of subclause (iv) and by adding thereto the following subclause:

- (v) an injury or disability for which benefits were claimed or received under the *Workers' Compensation Act*. R.S.O. 1980,
c. 539

40. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

41. The short title of this Act is the *Workers' Compensation Amendment Act, 1984*. Short title

Bill 101

(Chapter 58
Statutes of Ontario, 1984)



An Act to amend the Workers' Compensation Act

The Hon. R. H. Ramsay
Minister of Labour

<i>1st Reading</i>	June 12th, 1984
<i>2nd Reading</i>	June 19th, 1984
<i>3rd Reading</i>	December 14th, 1984
<i>Royal Assent</i>	December 14th, 1984

Bill 101

1984

An Act to amend the Workers' Compensation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (1) (b) of the *Workers' Compensation Act*, being chapter 539 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (b) "accident fund" means the fund established by this Act for the payment of benefits under Schedule 1, the costs and expenses of the administration of this Act, and such other costs and expenses as are directed by or under this or any other Act to be paid out of the accident fund, including all expenses arising out of the establishment, maintenance and operation of mine rescue stations under the *Occupational Health and Safety Act*;

R.S.O. 1980,
c. 321

- (ba) "Appeals Tribunal" means the Workers' Compensation Appeals Tribunal;

- (bb) "average earnings" means the average earnings of a worker determined by the Board under section 43.

(2) Clause 1 (1) (d) of the said Act is repealed.

(3) Clauses 1 (1) (g) and (h) of the said Act are repealed.

(4) Clause 1 (1) (k) of the said Act is repealed and the following substituted therefor:

- (k) "employer" includes every person having in the person's service under a contract of hiring or apprenticeship, written or oral, express or implied, any person engaged in any work in or about an industry and includes,

- (i) the Crown in right of Ontario and any permanent board or commission appointed by the Crown in right of Ontario,
- (ii) a trustee, receiver, liquidator, executor or administrator who carries on an industry,
- (iii) a person who authorizes or permits a learner to be in or about an industry for the purpose mentioned in clause (q).

(5) Clauses 1 (1) (n) and (o) of the said Act are repealed and the following substituted therefor:

- (n) "industrial disease" includes,
 - (i) a disease resulting from exposure to a substance relating to a particular process, a trade or occupation in an industry,
 - (ii) a disease peculiar to or characteristic of a particular industrial process, trade or occupation,
 - (iii) a medical condition that in the opinion of the Board requires a worker to be removed either temporarily or permanently from exposure to a substance because the condition may be a precursor to an industrial disease, or
 - (iv) any of the diseases mentioned in Schedule 3 or 4;
- (o) "industry" includes an establishment, undertaking, trade, business or service and, where domestics are employed, includes a household.

(6) Clause 1 (1) (t) of the said Act is repealed and the following substituted therefor:

- (t) "member of the family" means a spouse, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother or half-sister, and includes a person who stood *in loco parentis* to the worker or to whom the worker stood *in loco parentis*, whether related to the worker by consanguinity or not so related.

(7) Subsection 1 (1) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 61, section 3, is further amended by adding thereto the following clause:

- (xa) "spouse" means either of a man and woman who, at the time of death of the one who was the worker, were cohabiting and,
 - (i) were married to each other, or
 - (ii) not being married, had cohabited with each other immediately preceding the death,
 - (A) for a period of not less than five years, or
 - (B) in a relationship of some permanence, where there is a child born of whom they are the natural parents.

(8) Clause 1 (1) (z) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 61, section 3, is repealed and the following substituted therefor:

- (z) "worker" includes a person who has entered into or is employed under a contract of service or apprenticeship, written or oral, express or implied, whether by way of manual labour or otherwise, and includes,
 - (i) a learner,
 - (ii) a member of a municipal volunteer fire brigade or a municipal volunteer ambulance brigade,
 - (iii) a person deemed to be a worker of an employer by a direction or order of the Board,
 - (iv) a person summoned to assist in controlling or extinguishing a fire by an authority empowered to do so,
 - (v) a person who assists in any search and rescue operation at the request of and under the direction of a member of the Ontario Provincial Police Force,

(vi) a person who assists in connection with an emergency that has been declared to exist by the head of council of a municipality or the Premier of Ontario,

(vii) an auxiliary member of a police force,

but does not include an outworker, an executive officer of a corporation, or a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's industry.

(9) Subsection 1 (2) of the said Act is repealed and the following substituted therefor:

Deemed
employer

(2) For the purpose of this Act,

- (a) an authority who summons a person to assist in controlling or extinguishing a fire as mentioned in subclause (1) (z) (iv), shall be deemed to be the employer of the person;
- (b) the Crown in right of Ontario shall be deemed to be the employer of a person who assists in any search and rescue operation as mentioned in subclause (1) (z) (v); and
- (c) where the head of council of a municipality or the Premier of Ontario declares an emergency to exist as mentioned in subclause (1) (z) (vi), the municipality or the Crown in right of Ontario, as the case may be, shall be deemed to be the employer of the person,

and the earnings of the person shall be the earnings in the person's regular employment calculated in accordance with this Act or, if the person has no earnings, the earnings shall be fixed by the Board.

(10) Subsection 1 (4) of the said Act is amended by striking out "under section 44" in the thirteenth line and inserting in lieu thereof "determined by the Board" and by striking out "subsection 45 (1)" in the fourteenth and fifteenth lines and inserting in lieu thereof "section 41".

2. Section 2 of the said Act is repealed and the following substituted therefor:

2. A reference in this Act to Schedule 1, 2, 3 or 4, is a reference to Schedule 1, 2, 3 or 4, as the case may be, in the regulations. Schedules

2a. Where the services of a worker are temporarily lent or hired out to another person by the person with whom the worker has entered into a contract of service, the latter is deemed to continue to be the employer of the worker while the worker is working for the other person. Seconded workers

3. Section 3 of the said Act is repealed and the following substituted therefor:

3.—(1) Where in any employment, to which this Part applies, personal injury by accident arising out of and in the course of employment is caused to a worker, the worker and the worker's dependants are entitled to benefits in the manner and to the extent provided under this Act. Compensation to worker and dependants

(2) Where a worker is entitled to compensation for loss of earnings because of an accident, the employer shall pay to or on behalf of the worker the wages and benefits that the worker would have earned for the day or shift on which the injury occurred as though the injury had not occurred. Wages for day of accident

(3) Where the accident arose out of the employment, unless the contrary is shown, it shall be presumed that it occurred in the course of the employment and, where the accident occurred in the course of the employment unless the contrary is shown, it shall be presumed that it arose out of the employment. Presumptions

(4) In determining any claim under this Act, the decision shall be made in accordance with the real merits and justice of the case and where it is not practicable to determine an issue because the evidence for or against the issue is approximately equal in weight, the issue shall be resolved in favour of the claimant. Decisions to favour claimant

(5) Where the worker has not been paid the wages and benefits prescribed by subsection (2), the Board shall pay to or on behalf of the worker the wages and benefits prescribed by subsection (2). Payment under subs. (2)

(6) Every employer who makes default in paying the wages and benefits prescribed by subsection (2) shall, in addition to any other penalty or liability, pay to the Board a sum equal to the amount of such wages and benefits and payment of such amount may be enforced in the same manner as the payment of an assessment may be enforced. Idem

Serious and
wilful
misconduct

(7) Where an injury is attributable solely to the serious and wilful misconduct of the worker, no benefits or compensation are payable unless the injury results in death or serious disability.

4. Section 5, subsections 6 (8) and 9 (2), sections 20, 33, 52, 82 and 115 and subsections 121 (1) and 122 (11) of the said Act are amended by striking out "medical aid" wherever that expression occurs and inserting in lieu thereof in each instance "health care".

5.—(1) Subsection 8 (1) of the said Act, is amended by inserting after "employer" in the fourth line "or an executive officer or director thereof".

(2) Subsection 8 (9) of the said Act is amended by inserting after "Schedule 1" in the fourth line "or any executive officer or any director".

(3) Subsections 8 (11) and (12) of the said Act are repealed and the following substituted therefor:

Damages

(11) In any action brought by a worker of an employer in Schedule 1 or dependant of such worker in any case within subsection (1) or maintained by the Board under subsection (4) and one or more of the persons found to be at fault or negligent is the employer of the worker in Schedule 1 or an executive officer or director thereof, or any other employer in Schedule 1, or an executive officer or director thereof, or any worker of any employer in Schedule 1, no damages, contribution or indemnity are recoverable for the portion of the loss or damage caused by the fault or negligence of such employer of the worker in Schedule 1 or an executive officer or director thereof, or of any other employer in Schedule 1 or executive officer or director thereof, or of any worker of any employer in Schedule 1, and the portion of the loss or damage so caused by the fault or negligence of such employer of the worker in Schedule 1 or an executive officer or director thereof, or of any other employer in Schedule 1 or an executive officer or director thereof, or of the worker of any employer in Schedule 1, shall be determined although such employer or executive officer or director or worker is not a party to the action.

Idem

(12) In any action brought by a worker of an employer in Schedule 2 or dependant of such worker in any case within subsection (1) or maintained by the employer of the worker under subsection (4) and one or more of the persons found to be at fault or negligent is the employer of the worker in Schedule 2 or an executive officer or director thereof, no damages, contribution or indemnity are recoverable for the

portion of the loss or damage caused by the fault or negligence of such employer or executive officer or director and the portion of the loss or damage so caused by the fault or negligence of such employer or executive officer or director shall be determined although such employer or executive officer or director is not a party to the action.

6. Section 14 of the said Act is amended by inserting after “worker” in the fourth line “or any executive officer thereof”.

7. Section 15 of the said Act is repealed and the following substituted therefor:

15. Any party to an action may apply to the Appeals Tribunal for adjudication and determination of the question of the plaintiff's right to compensation under this Part, or as to whether the action is one the right to bring which is taken away by this Part, or whether the action is one in which the right to recover damages, contribution, or indemnity is limited by this Part, and such adjudication and determination is final and conclusive.

Determina-
tion
of right to
bring action

8. Sections 21 and 22 of the said Act are repealed and the following substituted therefor:

21.—(1) Subject to subsection (2), where an employer so requires, a worker who has made a claim for compensation or to whom compensation is payable under this Act shall submit to a medical examination by a medical practitioner selected, and paid for, by the employer.

Medical
examination

(2) Where a worker objects to the requirement of the employer to submit to a medical examination or to the nature and extent of the medical examination, being conducted by a medical practitioner the worker or the employer may, within a period of fourteen days of the objection having been made, apply to the Appeals Tribunal to hear and determine the matter and the Appeals Tribunal may set aside the requirement or order the worker to submit to and undergo a medical examination by a medical practitioner or make such further or other order as may be just.

Appeal

9. Section 36 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 38, sections 1 and 2, is repealed and the following substituted therefor:

36.—(1) Where death results from an injury to a worker, a spouse who survives the worker shall be entitled to,

Compensation
in case of
death

- (a) compensation payable by way of a lump sum of \$40,000 increased by the addition of \$1,000 for each year of age of the spouse under forty years at the time of the worker's death or reduced by the subtraction of \$1,000 for each year of age of the spouse over forty years at the time of the workers' death, but in no case shall a spouse receive a lump sum payment of more than \$60,000 or less than \$20,000;
- (b) compensation by way of periodic payments in the manner and to the extent provided in this section; and
- (c) the same counselling and vocational assistance as would be provided to a worker under section 54.

Spouse with
children

(2) Where a deceased worker is survived by a spouse and one or more children, compensation in an amount equal to 90 per cent of the deceased worker's net average earnings at the time of injury shall be payable to the spouse until the youngest child reaches the age of nineteen.

Spouse,
no children

(3) Where the deceased worker is survived by a spouse and no child or children, the spouse shall be entitled to a periodic payment of 40 per cent of the net average earnings of the deceased worker adjusted by the addition of 1 per cent of the net average earnings for each year of age of the spouse over forty years at the time of the worker's death or by the subtraction of 1 per cent of the net average earnings for each year of age of the spouse under forty years at the time of the worker's death, but in no case shall the spouse receive a periodic payment of more than 60 per cent or less than 20 per cent of net average earnings of the deceased worker.

Dependent
children, no
spouse

(4) Where there is no spouse entitled to compensation or the spouse dies and the deceased worker,

- (a) is survived by only one dependent child, the dependent child is entitled to compensation equal to 30 per cent of the net average earnings of the deceased worker at the time of injury; or
- (b) is survived by more than one dependent child, the dependent children are entitled as a class to compensation equal to 30 per cent of the net average earnings of the deceased worker at the time of the injury, plus an additional amount of 10 per cent of the net average earnings of the deceased worker at the time of injury for each additional dependent

child over one to a maximum of 90 per cent of the net average earnings.

(5) Where, at the time of the death of the worker, there is no spouse entitled to receive a lump sum payment under clause (1) (a), the worker's dependent child or children shall be entitled to receive in aggregate a total lump sum payment of \$40,000 in addition to the compensation payable under subsection (4). Idem

(6) Where a deceased worker is not survived by a spouse or by a dependent child or children and there are dependants, the dependants are entitled to reasonable compensation proportionate to the loss occasioned to the dependants by the death as determined by the Board, but in no case shall the total compensation exceed 50 per cent of the net average earnings of the deceased worker at the time of injury, and the compensation shall be payable only so long as the worker could have been reasonably expected to continue to support the dependant or dependants as if the deceased worker had not suffered injury. Dependants,
no spouse or
children

(7) Payment shall be made for the necessary expenses of burial or cremation of a deceased worker, as determined by the Board, which amount shall not be less than \$1,500, and, where owing to the circumstances of the case the body of a worker is transported for a considerable distance for burial or cremation, a further sum, as determined by the Board, shall be paid for the necessary extra expenses so incurred. Burial
expenses

(8) Subject to subsection (9), where compensation has been paid under subsection (2) and no child is under the age of nineteen years, the spouse shall be entitled to payment of compensation under subsection (3) as if the worker had died on the day after the day the youngest child then living reached the age of nineteen years. Recalculation
of spousal
periodic
payments

(9) Where the Board is satisfied that it is advisable for a child or children over the age of nineteen to continue education, the Board shall pay in respect of each such child 10 per cent of the net average earnings of the worker at the time of the injury but the total benefit in respect of the spouse and such children shall not exceed 90 per cent of the net average earnings of the worker at the time of the injury. Education of
children

(10) Subject to subsections (8), (9) and (12), a monthly payment in respect of a child shall cease when the child attains the age of nineteen years or when the Board is satisfied that it is not advisable for a child over the age of nineteen to continue receiving an education. When child
payments
cease

Person *in loco parentis*

(11) Where a child or children is or are entitled to compensation under this section and is or are being maintained by a suitable person who is acting *in loco parentis* in a manner the Board considers satisfactory, such person while so doing is entitled to receive the same periodic payments of compensation for himself or herself and the child or children as if the person were a spouse of the deceased and in such case the child's or children's part of such payments shall be in lieu of the periodic payments that the child or children would otherwise be entitled to receive and, where there is more than one child and more than one person acting *in loco parentis*, the Board may in its discretion apportion the payments under this section accordingly and, where this subsection applies, the maximum amount payable under this section shall not exceed 90 per cent of the net average earnings of the deceased worker at the time of injury.

Invalid child

(12) Compensation is payable to an invalid child without regard to the age of the child and shall continue until the child ceases to be an invalid or dies.

Deduction for C.P.P.

(13) In calculating the average earnings of a deceased worker for the purposes of paying compensation by way of periodic payments under this section, there shall be deducted from such earnings any payments received by way of any survivor's benefit under the Canada Pension Plan.

Separated spouse

(14) A person who ceased to be a spouse by reason of living separate and apart from the deceased worker at the time of the worker's death is entitled to compensation under this section as a spouse where the worker was or would have been required had the worker not died to make support, maintenance or alimony payments under a separation agreement or judicial order.

Idem

(15) Where there is more than one person entitled to receive periodic or lump sum payments under this section as a spouse and the periodic payments to those persons as provided in this section would in total exceed 90 per cent of the net average earnings of the deceased worker at the time of injury and, or, the lump sum payments to these persons as provided in this section would in total exceed \$60,000, the total periodic payments shall be limited to 90 per cent of the net average earnings and the total lump sum payments shall be limited to \$60,000 and the Board shall apportion payments that are so limited between those entitled in accordance with,

- (a) the relative degrees of financial and emotional dependance on the deceased at the time of death;

- (b) the period of separation, if any, from the deceased at the time of death; and
- (c) the size of the relative entitlements to those so entitled without reference to this subsection.

10. Sections 37 and 38 of the said Act are repealed.

11. Sections 39, 40 and 41, section 42, as amended by the Statutes of Ontario, 1981, chapter 30, section 3, 1982, chapter 61, section 6 and 1983, chapter 45, section 3, section 43, as amended by the Statutes of Ontario, 1984, chapter 38, section 3, section 44, as re-enacted by the Statutes of Ontario, 1984, chapter 38, section 4, and section 45, as amended by the Statutes of Ontario, 1984, chapter 38, section 5, of the said Act are repealed and the following substituted therefor:

39. Compensation for disability shall be computed and payable from and including the day following the day of the accident or from the date of the disability, whichever is the later.

When
compensation
payable

40.—(1) Where injury to a worker results in temporary total disability, the worker is entitled to compensation under this Act in an amount equal to 90 per cent of the worker's net average earnings before the injury so long as temporary total disability continues.

Temporary
total
disability

(2) Where temporary partial disability results from the injury, the compensation payable shall be,

Temporary
partial
disability

- (a) where the worker returns to employment, a weekly payment of 90 per cent of the difference between the net average weekly earnings of the worker before the injury and a net average amount that the worker is able to earn in some suitable employment or business after the injury; or
- (b) where the worker does not return to work, a weekly payment in the same amount as would be payable if the worker were temporarily totally disabled, unless the worker,
 - (i) fails to co-operate in or is not available for a medical or vocational rehabilitation program which would, in the Board's opinion, aid in getting the worker back to work, or
 - (ii) fails to accept or is not available for employment which is available and which in the opin-

ion of the Board is suitable for the worker's capabilities.

Idem

(3) In determining the amount to be paid under clause (2) (b), the Board shall have regard to any payments the worker receives under the Canada Pension Plan, and where subclause (2) (b) (i) or (ii) applies, the compensation shall be a periodic amount proportionate to the degree of earnings impairment resulting from the injury as determined by the Board and subsection 45 (4) applies.

Maximum
earnings

41. For the purposes of this Act, the maximum amount of average earnings upon which the loss of earnings is to be calculated shall be at the rate of \$31,500 per annum.

Minimum
compensation

42.—(1) The minimum amount of compensation payable for temporary total disability shall be,

- (a) \$10,500 per annum where the net average earnings of the worker at the time of the accident are equal to or exceed \$10,500 per annum; or
- (b) the net average earnings of the worker at the time of the accident where the net average earnings are less than \$10,500 per annum.

Idem

(2) The minimum amount of compensation payable for temporary partial disability shall be a proportionate amount of the minimum compensation payable under subsection (1) in accordance with the impairment of earning capacity.

Idem

(3) The minimum amount of compensation payable for permanent disability shall be computed in accordance with sections 41 and 45, but the amount of such compensation shall not be less than,

- (a) for permanent total disability in one claim, \$10,500 per annum; and
- (b) for permanent partial disability, an amount proportionate to that mentioned in clause (a) in accordance with the impairment of earning capacity.

Idem

(4) The minimum amount of compensation to which a spouse and child or children of a deceased worker are entitled under subsection 36 (2) shall be \$10,500 per annum.

Idem

(5) The minimum amount of compensation to which a spouse of a deceased worker is entitled under subsection

36 (3) shall be \$10,500 per annum multiplied by the percentage prescribed therein.

(6) The minimum amount of compensation to which a child or children of a deceased worker is or are entitled under subsection 36 (4) shall be \$10,500 per annum multiplied by the percentage prescribed therein. Idem

43.—(1) In determining the average earnings of a worker, the Board shall, Average earnings

- (a) calculate the daily or hourly rate of the worker's earnings with the employer for whom the worker worked at the time of accident as is best calculated to give the rate per week at which the worker was remunerated at the time of the accident;
- (b) if the calculation under clause (a) does not fairly represent the average earnings of the worker, upon application, the Board shall determine the worker's average earnings with the employer for whom the worker worked at the time of the accident during the twelve months or such lesser period immediately preceding the accident when the worker was employed with the employer.

(2) Where owing to the shortness of the time during which the worker was in the employment of the employer or the casual nature of the employment or where it is impractical to calculate the average earnings at the time of the accident, regard may be had to the average earnings that during the twelve months prior to the accident was being earned by a person in the same grade employed at the same work by the same employer or, if there is no person so employed, then by a person in the same grade employed in the same class of employment in the same locality. Idem

(3) Where the worker has entered into concurrent contracts of service with two or more employers under which the worker worked at one time for one of them and at another time for another of them, the worker's average earnings shall be calculated on the basis of what the worker probably would have been earning if the worker had been employed solely in the employment of the employer for whom the worker was working at the time of the accident. Idem

(4) For the purposes of subsection (2), "employed at the same work by the same employer" means employment by the same employer in the grade in which the worker was Interpretation

employed at the time of the accident uninterrupted by absence from work due to illness or any other unavoidable cause.

Special
expenses

(5) Where the employer was accustomed to paying the worker a sum to cover any special expenses entailed on the worker by the nature of the employment, that sum shall not be reckoned as part of the worker's earnings.

Learners

(6) Where a worker is an apprentice or in the course of learning a trade, occupation, profession or calling and the worker's remuneration is of a nominal nature, the Board may for the purposes of this Act determine the worker's average earnings at the time of the accident at an amount it considers fair and equitable having regard to the average earnings of a fully qualified person engaged in the same trade, occupation, profession or calling, and the employer of the worker is liable to pay its assessment to the Board on the earnings so determined.

Further
benefits

(7) Where a worker, who has become entitled to benefits under this Act and has returned to employment, becomes entitled to payment for temporary disability by reason of any matter arising out of the original accident, the compensation payable for such temporary disability shall be paid on either the average earnings at the date of the accident or the average earnings at the date of the most recent employment of the worker, calculated in accordance with this Act, whichever is the greater.

Net average
earnings

44.—(1) The net average earnings of a worker shall be determined by the Board by deducting from the earnings of a worker,

- (a) the probable income tax payable by the worker on the worker's earnings;
- (b) the probable Canada Pension Plan premiums payable by the worker; and
- (c) the probable unemployment insurance premiums payable by the worker.

Idem

(2) The Board shall on the 1st day of January in each year establish a schedule setting forth a table of net average earnings based upon the provisions of this section and such schedule shall be deemed conclusive and final.

Permanent
disability

45.—(1) Where permanent disability results from the injury, the impairment of earning capacity of the worker shall be estimated from the nature and degree of the injury, and the

compensation shall be a weekly or other periodic payment during the lifetime of the worker, or such other period as the Board may fix, of a sum proportionate to such impairment not exceeding in any case the like proportion of 90 per cent of the worker's net average earnings.

(2) Compensation for permanent disability is payable Idem
whether or not an award is made for temporary disability.

(3) The Board may compile a rating schedule of percent- Idem
ages of impairment of earning capacity for specified injuries or
mutilations that may be used as a guide in determining the
compensation payable in permanent disability cases.

(4) Where the impairment of the earning capacity of the Lump sum
worker does not exceed 10 per cent of the worker's earning
capacity and the worker does not elect to receive compensa-
tion by a weekly or other periodic payment, the Board shall,
unless the Board decides that it would not be to the advantage
of the worker to do so, direct that such lump sum as may be
considered to be the equivalent of the periodic payment shall
be paid to the worker.

(5) Notwithstanding subsection (1), where the impairment Supplement
of the earning capacity of the worker is significantly greater
than is usual for the nature and degree of the injury, the
Board may supplement the amount awarded for permanent
partial disability for such period as the Board may fix unless
the worker,

- (a) fails to co-operate in or is not available for a medi-
cal or vocational rehabilitation program which
would, in the Board's opinion, aid in getting the
worker back to work; or
- (b) fails to accept or is not available for employment
which is available and which in the opinion of the
Board is suitable for the worker's capabilities.

(6) In calculating the amount of the supplement under sub- Idem
section (5), the Board shall have regard to the difference
between the net average earnings of the worker before the
accident and the net average earnings after the accident and
the compensation shall be a weekly or other periodic payment
of 90 per cent of the difference but the sum total of such sup-
plement and the award under subsection (1) shall not exceed
the like proportion of 90 per cent of the worker's pre-accident
net average earnings and the Board shall have regard to the
effect of inflation on the pre-accident earnings rate and to any
payments the worker receives under the Canada Pension Plan.

Older
workers

(7) Notwithstanding subsections (1) and (5), where the impairment of earnings capacity for an older worker is significantly greater than is usual for the nature and degree of the worker's injury and, where in the opinion of the Board, the worker can not return to work and is unlikely to benefit from a vocational rehabilitation program which would lead to employment, the Board may supplement the amount awarded for permanent partial disability with an amount not exceeding the old age security benefits that would be payable under section 3 of the *Old Age Security Act* (Canada), and amendments thereto, as if the worker were eligible therefor, and such supplement may continue until the worker is eligible for such old age security benefits or until the worker returns to employment.

R.S.C. 1970,
c. 0-6

Idem

(8) A supplement awarded under subsection (7) shall be a weekly or other periodic payment and the total sum of such supplement and the award under subsection (1) shall not exceed the like proportion of 90 per cent of the worker's pre-accident net average earnings and, in calculating the amount of the supplement, the Board shall have regard to the effect of inflation on the pre-accident earnings rate and to any payments the worker receives under the Canada Pension Plan.

Effect of
C.P.P.

(9) Notwithstanding subsection 40 (3) or subsection (6) or (8) of this section, the fact that a worker is receiving payments under the Canada Pension Plan shall not be a bar to receiving payments under clause 40 (2) (b) or subsection (5) or (7) of this section and the Board in having regard to payments received by a worker under the Canada Pension Plan shall have regard only to those payments received by the worker with respect to a disability arising from the injury.

Permanent
disfigurement

(10) Notwithstanding subsection (1), where the worker is seriously and permanently disfigured about the face or head, the Board may allow a lump sum in compensation therefor.

Dependants

(11) Where, at the time of a worker's death, the worker was in receipt of an award for permanent disability which the Board has rated at 100 per cent or, but for the death, would have been in receipt of an award for permanent disability at the rate of 100 per cent, a dependant of the worker is entitled to compensation from the time of the worker's death as if the death of the worker had resulted from the compensable disability for which the worker received or would have received the permanent disability award.

Interpretation

(12) For the purposes of this section, "permanent disability" means any physical or functional abnormality or loss, and

any psychological damage arising from such abnormality or loss, after maximal medical rehabilitation has been achieved.

12. Section 49 of the said Act is repealed.

13. Section 50 of the said Act is repealed and the following substituted therefor:

50.—(1) Where a worker is entitled to compensation and the worker's spouse or the worker's child or children under the age of nineteen is or are entitled to support or maintenance under the order of a court that in the opinion of the Board is enforceable in Ontario, the Board shall divert the compensation in accordance with the court order to the extent that there is default made under the order after this section comes into force.

Family
support

(2) In this section, "spouse" means a spouse as defined in Part II of the *Family Law Reform Act*.

Interpretation
R.S.O. 1980,
c. 152

14. Subsection 55 (2) of the said Act is repealed and the following substituted therefor:

(2) The *Corporations Act* does not apply to the corporation and, subject to the provisions of this Act, the corporation shall have the capacity and powers of a natural person.

R.S.O. 1980,
c. 95 not to
apply

15.—(1) Sections 56, 57 and 58 of the said Act are repealed and the following substituted therefor:

56.—(1) There shall be constituted for the management and government of the corporation and for the exercise of the powers and performance of the duties of the Board under this or any other Act a board of directors the members of which shall be appointed by the Lieutenant Governor in Council and which shall consist of a full-time chairman, full-time vice-chairman of administration and not less than five and not more than nine part-time members who shall be representative of employers, workers, professional persons and the public.

Board of
directors

(2) The chairman of the Appeals Tribunal shall be a member *ex officio* of the board of directors but shall not vote on any matter.

Ex officio
member

(2) The terms of office of the commissioners of the Workers' Compensation Board, except the chairman and the vice-chairman of administration, in office immediately before the coming into force of this section are terminated.

16. Section 59 of the said Act is amended by striking out “commissioners” in the first and second lines and inserting in lieu thereof “directors”.

17. Sections 60, 61 and 62 of the said Act are repealed.

18. Subsections 63 (3) and (4) of the said Act are repealed.

19. Section 64 of the said Act is repealed and the following substituted therefor:

Where vice-chairman of administration may act

64.—(1) In the absence of the chairman from Ontario, the chairman’s inability to act, or where the office of chairman is vacant, the chairman’s duties shall be performed by the vice-chairman of administration.

Presumption where vice-chairman acts

(2) Wherever it appears that the vice-chairman acted for and instead of the chairman, it shall be conclusively presumed that the vice-chairman has so acted in the absence, disability or vacancy in the office of the chairman.

20.—(1) Subsection 65 (1) of the said Act is amended by striking out “A commissioner” in the first line and inserting in lieu thereof “The chairman, the vice-chairman of administration and the chairman of the Appeals Tribunal”.

(2) Subsection 65 (2) of the said Act is amended by striking out “a commissioner” in the third line and inserting in lieu thereof “the chairman, the vice-chairman of administration or the chairman of the Appeals Tribunal”.

21. Section 66 of the said Act is repealed.

22. Subsection 67 (2) of the said Act is repealed and the following substituted therefor:

Place of meeting

(2) The board of directors may meet or hold meetings in any place in Ontario as is considered convenient.

23. Subsection 68 (2) of the said Act is amended by striking out “commissioner” in the second line and inserting in lieu thereof “director”.

24.—(1) Subsection 71 (2) of the said Act is repealed and the following substituted therefor:

Quorum

(2) A majority of the members of the board of directors for the time being, one of whom must be the chairman or vice-chairman of administration, constitutes a quorum for the

transaction of business at meetings of the Board and a decision of a majority is the decision of the board of directors.

(2) Clause 71 (3) (g) of the said Act is amended by striking out “and” at the end thereof.

(3) Clause 71 (3) (h) of the said Act is repealed and the following substituted therefor:

- (h) enter into agreements with the government of Canada or any province or territory in Canada, or the appropriate authority thereof, providing for co-operation in matters relating to compensation for or rehabilitation of workers disabled by injuries arising out of and in the course of employment;
- (i) subject to the approval of the Lieutenant Governor in Council enter into agreements with any state, government or authority outside Canada providing for co-operation in matters relating to compensation for or rehabilitation of workers disabled by injuries arising out of and in the course of employment; and
- (j) undertake and carry on such investigations, research and training and make grants to individuals, institutions and organizations for investigations, research and training in such amounts and upon such terms and conditions as the Board considers acceptable.

(4) Section 71 of the said Act is amended by adding thereto the following subsection:

(4) The board of directors may delegate in writing any of the Board's powers or duties, subject to such limitations, conditions and requirements as are set out in the delegation, to any director, officer or employee of the Board who may act in the place and stead of the board of directors and when a delegate acts in the place and stead of the board of directors, it shall be presumed conclusively that the delegate acted in accordance with the delegation.

Delegation

25. Subsection 72 (1) of the said Act is repealed and the following substituted therefor:

(1) In accordance with personnel policies approved from time to time by the board of directors of the Board, the chairman, subject to such guidelines as may be established by the Management Board of Cabinet and subject to the provisions of the *Crown Employees Collective Bargaining Act*, may establish job classifications, personnel qualifications and

Powers of
chairman

R.S.O. 1980,
c. 108

ranges for remuneration and benefits for consultants, actuaries, accountants, experts, officers and employees of the Board, and the chairman may appoint, promote and employ the same in conformity with the classifications, qualifications and ranges for remuneration and benefits established by the chairman.

26.—(1) Subsection 74 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 61, section 12, is amended by striking out “an employee or commissioner” in the third and fourth lines and inserting in lieu thereof “a full-time member of the board of directors or an employee of the Board”.

(2) Clause 74 (2) (a) of the said Act is amended by striking out “commissioners” in the second line and inserting in lieu thereof “full-time members of the board of directors”.

(3) Subsection 74 (6) of the said Act is amended by striking out “commissioner” in the first line and inserting in lieu thereof “full-time member of the board of directors”.

27.—(1) Subsection 75 (1) of the said Act is amended by adding at the commencement thereof “Except as provided by this Act”.

(2) Subsection 75 (2) of the said Act is amended by adding thereto the following clauses:

(l) the net average earnings of a worker;

(m) whether a person is a spouse or child.

(3) Section 75 of the said Act is amended by adding thereto the following subsections:

Medical
examination

(3) A worker who has made a claim for compensation or to whom compensation is payable under this Act shall, if requested by the Board, submit to a medical examination by a medical practitioner named by the Board.

Failure to
be examined

(4) If a worker contravenes subsection (3) or in any way obstructs an examination without reasonable cause or excuse, the worker's right to compensation or to a decision by the Board may be suspended by the Board until the examination has taken place.

28. Sections 77 and 78 of the said Act are repealed and the following substituted therefor:

77.—(1) Subject to subsection (2), where there is an issue in dispute, upon request, the Board shall give a worker, or if deceased, the persons who may be entitled to benefits under section 36, full access to and copies of the Board's file and records respecting the claim and the Board shall provide like access and copies to a representative of the worker upon presentation of a written authorization for that purpose signed by the worker, or if deceased, signed by a person who may be entitled to benefits under section 36.

Access to
records by
worker

(2) Where the file or a record respecting the claim, in the opinion of the Board, contains medical or other information that would be harmful to the worker, if given to the worker, the Board shall provide copies of such medical information to the worker's treating physician instead of the worker or the worker's representative and advise the worker or the representative that it has done so.

Medical
information

(3) Where there is an issue in dispute, upon request, the Board shall grant the employer access to copies of only those records of the Board that the Board considers to be relevant to the issue or issues in dispute and the Board shall provide like access and copies to a representative of the employer upon presentation of written authorization for that purpose signed by the employer.

Access to
records by
employer

(4) Where the employer or the employer's representative is given access to and copies of records referred to in subsection (3), the worker or worker's representative shall be informed of the access to and copies of records so given.

Idem

(5) Before granting access to the employer to medical reports and opinions under subsection (3), the Board shall notify the worker or claimant for compensation of the medical reports or opinions it considers relevant and permit written objections to be made within such time as may be specified in the notice before granting access to the employer and, after considering the objections, the Board may refuse access to the reports and opinions or may permit access thereto with or without conditions.

Idem

(6) A worker, employer or party of record may appeal a decision of the Board made under this section within twenty-one days of the mailing of the Board's decision and no access to or copies of the Board's records shall be provided until the expiry of the twenty-one day period or until the Appeals Tribunal gives its decision, whichever is later.

Appeal

(7) No employer or employer's representative who obtains access to copies of any of the records of the Board shall dis-

Information
confidential

close any medical information obtained therefrom except in a form calculated to prevent the information from being identified with a particular worker or case.

Offence

(8) Every employer and employer's representative who contravenes subsection (7) is guilty of an offence.

29.—(1) Section 79 of the said Act is amended by striking out “appeals” in the second line.

(2) Section 79 of the said Act is further amended by adding thereto the following subsection:

Decisions

to be

communicated

(2) Every decision of the Board and the reasons therefor shall be communicated promptly in writing to the parties of record.

30. Clause 81 (c) of the said Act is amended by inserting after “worker” in the first line “spouse, child or”.

31.—(1) Subsection 83 (1) of the said Act is amended by striking out “commissioner of the Board, or any other commissioner” in the first and second lines and inserting in lieu thereof “member of the board of directors”.

(2) Subsection 83 (2) of the said Act is amended by striking out “commissioner thereof or any other commissioner” in the first and second lines and inserting in lieu thereof “member of the board of directors”.

(3) Subsection 83 (3) of the said Act is amended by striking out “commissioner thereof or any other commissioner” in the second line and inserting in lieu thereof “member of the board of directors”.

(4) Subsection 83 (4) of the said Act is amended by striking out “commissioner thereof or any other commissioner” in the third and fourth lines and inserting in lieu thereof “member of the board of directors”.

32. The said Act is amended by adding thereto the following sections:

Appeals

Tribunal

established

86a. There is hereby constituted a tribunal to be known as the “Workers’ Compensation Appeals Tribunal”.

Composition

of Appeals

Tribunal

86b.—(1) The Lieutenant Governor in Council shall appoint a chairman of the Appeals Tribunal, one or more vice-chairmen of the Appeals Tribunal and as many members of the Appeals Tribunal, equal in number, representative of

employers and workers, respectively, as is considered appropriate.

(2) The remuneration, benefits and allowances of the members of the Appeals Tribunal shall be determined by the Lieutenant Governor in Council.

Remuneration

(3) The chairman of the Appeals Tribunal, subject to such guidelines as may be established by the Management Board of Cabinet and subject to the provisions of the *Crown Employees Collective Bargaining Act*, may establish job classifications, personnel qualifications and ranges for remuneration and benefits for officers and employees of the Appeals Tribunal, and the chairman may appoint, promote and employ the same in conformity with the classifications, qualifications and ranges for remuneration and benefits so established by the chairman.

Officers and employees
R.S.O. 1980, c. 180

(4) For the purposes of section 74 only, every full-time member of the Appeals Tribunal and every person appointed under subsection (3) to full-time employment shall be deemed to be an employee of the Board.

Superannuation

(5) The costs and expenses associated with the administration of the Appeals Tribunal, including the remuneration and expenses of its members, officers and employees, shall form part of the administration expenses of the Board.

Recovery of costs and expenses

86c.—(1) The chairman of the Appeals Tribunal is its chief executive officer and shall preside at its meetings and upon all panels of the Appeals Tribunal of which the chairman is a member.

Chairman

(2) In the absence from Ontario of the chairman, the chairman's inability to act or where the office is vacant, the chairman's duties shall be performed by a vice-chairman designated to act by the chairman or, where the chairman has failed so to designate, by a vice-chairman designated to act by the Minister of Labour.

When vice-chairman may act

(3) Whenever it appears that a vice-chairman has acted for and instead of the chairman, it shall be presumed that the vice-chairman has so acted in the absence or disability of the chairman or because of a vacancy in the office of the chairman.

Presumption where vice-chairman acts

86d.—(1) A quorum shall consist of the chairman of the Appeals Tribunal or a vice-chairman of the Appeals Tribunal designated by the chairman to act in place of the chairman and not less than two members of the Appeals Tribunal to be

Quorum

equal in number and representative of employers and workers.

Idem (2) A quorum may exercise all the jurisdiction and powers of the Appeals Tribunal.

Deciding vote (3) The decision of the majority of the quorum present and constituting the Appeals Tribunal is the decision thereof, but, if there is no majority vote, the decision of the chairman or the vice-chairman governs.

Panels **86e.**—(1) The chairman of the Appeals Tribunal may establish panels of the Appeals Tribunal and a panel has all the jurisdiction and powers of the Appeals Tribunal.

Composition (2) A panel of the Appeals Tribunal shall consist of three members as follows:

1. The chairman or a vice-chairman of the Appeals Tribunal.
2. One member of the Appeals Tribunal representative of employers.
3. One member of the Appeals Tribunal representative of workers.

Deciding vote (3) The decision of the majority of a panel consisting of three persons is the decision of the Appeals Tribunal.

Effect of resignation, expiry of term **86f.** Where the chairman, a vice-chairman or other member of the Appeals Tribunal resigns or the term of office expires, the person may carry out and complete any duties or responsibilities that the person would have had if the person had not resigned or the person's term had not expired in respect of any application, proceeding or matter in which the person participated.

Jurisdiction **86g.**—(1) Subject to section 86n, the Appeals Tribunal has exclusive jurisdiction to hear, determine and dispose of,

- (a) any matter or issue expressly conferred upon it by this Act;
- (b) all appeals from decisions, orders or rulings of the Board respecting the provision of health care, vocational rehabilitation or entitlement to compensation or benefits under this Act; and

- (c) all appeals respecting assessments, penalties or the transfer of costs,

and subsection 75 (2) applies with necessary modifications where a matter referred to in that subsection is raised in an appeal.

(2) The Appeals Tribunal shall not hear, determine or dispose of an appeal from a decision, order or ruling of the Board unless the procedures established by the Board for consideration of issues respecting the matters mentioned in clause (1) (b) or (c) have been exhausted, and the Board has made a final decision, order or ruling thereon. Idem

(3) The Appeals Tribunal may make any order or direction that may be made by the Board and the order or direction of the Appeals Tribunal or a panel thereof is final and conclusive and not open to question or review in any court upon any grounds and no proceedings by or before the Appeals Tribunal or a panel thereof shall be restrained by injunction, prohibition or other process or proceeding in any court or be removable by application for judicial review, or otherwise, into any court. Idem

86h.—(1) The Lieutenant Governor in Council, after requesting and considering the views of representatives of employers, workers and physicians, shall appoint qualified medical practitioners, other than practitioners appointed under subsection 72 (1) or 86b (3), to a list and the Appeals Tribunal may obtain the assistance of one or more of them in such way and at such time or times as it thinks fit so as to better enable it to determine any matter of fact in question in any application, appeal or proceeding. Panel of medical practitioners

(2) The chairman of the Appeals Tribunal may fix the remuneration of a medical practitioner who provides assistance to the Appeals Tribunal under this section and the remuneration shall be part of the administrative expenses of the Board. Remuneration

(3) A medical practitioner shall not be asked, except with the written consent of the parties of record, to assist the Appeals Tribunal in any application, appeal or proceeding where the practitioner, Limitations

- (a) has examined the worker whose claim is the subject-matter of the application, appeal or proceeding;
- (b) has treated the worker or a member of the family of the worker;

(c) has acted as a consultant in the treatment of the worker or as a consultant to the employer; or

(d) is a partner of a practitioner mentioned in clause (a), (b) or (c).

Pre-hearing
inquiry

(4) The Appeals Tribunal has power to authorize the chairman or a vice-chairman to inquire into applications by way of appeal under clause 86g (1) (b) to determine whether an issue involves a decision of the Board upon a medical report or opinion and, if such is the case, the person making the inquiry may, before the appeal is heard by the Appeals Tribunal, require that the worker submit to an examination by one or more medical practitioners appointed under subsection (1) who shall report, in writing, to the Appeals Tribunal thereon.

Copies of
report

(5) The Appeals Tribunal shall, upon receiving the report of the medical practitioner or practitioners, send a copy thereof to the parties to the appeal for the purpose of receiving their submissions thereon.

Powers not
affected

(6) Nothing in subsection (4) limits the right of the Appeals Tribunal to exercise its powers under subsection (1) during the hearing of an appeal.

Failure to
be examined

(7) If a worker is required by the Appeals Tribunal to submit to an examination by one or more medical practitioners who provide assistance to the Appeals Tribunal under this section and the worker does not submit to the examination or in any way obstructs the examination, the worker's right to compensation or to a final decision by the Appeals Tribunal may be suspended by the Appeals Tribunal.

Application
of s. 83

86i. Section 83 applies with necessary modifications to the chairman, vice-chairmen and other members of the Appeals Tribunal, to all officers and employees of the Appeals Tribunal and any person engaged by the Appeals Tribunal to conduct an examination, test or inquiry, or authorized to perform any function under this Act.

Notice

86j.—(1) Upon receipt of a notice of appeal, the Appeals Tribunal shall, as soon as practicable, notify the Board and the parties of record of the appeal and the issue or issues in respect of which the appeal is brought and shall furnish the same with copies of any written submissions made with respect thereto.

Payments
pending
appeal

(2) Any periodic payments to be paid under a decision of the Board shall be paid notwithstanding that an appeal is

taken therefrom and any amounts paid may be dealt with as the Appeals Tribunal shall direct.

(3) Upon receipt of a notice under subsection (1), the Board shall forthwith transmit the Board's records related to the appeal to the chairman of the Appeals Tribunal.

Transmission
of records

86k. The Appeals Tribunal shall determine its own practice and procedure and may, subject to the approval of the Lieutenant Governor in Council, make rules governing its practice and procedure and the exercise of its powers in respect thereto, and may prescribe such forms as it considers necessary.

Rules

86l.—(1) The Appeals Tribunal may confirm, vary, reverse or uphold any decision of the Board under appeal.

Powers of
Appeals
Tribunal

(2) Every decision of the Appeals Tribunal and the reasons therefor shall be communicated promptly in writing to the Board and the parties of record.

Communi-
cation
of decisions

86m. Sections 76, 80 and 81 apply with necessary modifications to the Appeals Tribunal as if a reference to the Board were a reference to the Appeals Tribunal.

Application
of certain
sections

86n.—(1) Where a decision of the Appeals Tribunal turns upon an interpretation of the policy and general law of this Act, the board of directors of the Board may in its discretion review and determine the issue of interpretation of the policy and general law of this Act and may direct the Appeals Tribunal to reconsider the matter in light of the determination of the board of directors.

Determi-
nation
of issues by
Board

(2) Where the board of directors of the Board in the exercise of its discretion under subsection (1) considers that a review is warranted, it shall either hold a hearing and afford the parties likely to be affected by its determination an opportunity to make oral and written submissions or it may dispense with a hearing if it permits the parties likely to be affected by its determination to make written submissions, as the board may direct.

Hearing

(3) The board of directors of the Board shall give its determination and direction, if any, under this section in writing together with its reasons therefor.

Determi-
nation

(4) Pending its determination, the board of directors of the Board, with respect to the decision that is the subject-matter of the review, may stay the enforcement or execution of the

Stay, etc.,
of orders

order made under the decision or may vacate the order if it has been implemented.

Appeals

86o.—(1) An appeal to the Appeals Tribunal lies from a decision of the Board with respect to the matters referred to in clauses 86g (1) (b) and (c).

Transition

(2) With the leave of the Appeals Tribunal, a decision of a panel of the Board made before this section comes into force may be appealed to the Appeals Tribunal.

Idem

(3) Leave to appeal a decision to which subsection (2) applies shall not be granted unless,

(a) there is substantial new evidence which was unavailable at the time of the hearing by the panel; or

(b) there appears to the Appeals Tribunal to be good reason to doubt the correctness of the decision.

Industrial
Disease
Standards
Panel

86p.—(1) There is hereby constituted a panel to be known as the Industrial Disease Standards Panel.

Composition

(2) The Panel shall be composed of not more than nine members including persons representative of the public and of the scientific community and technical and professional persons.

Idem

(3) The members of the Panel shall be appointed by the Lieutenant Governor in Council one of whom shall be designated by the Lieutenant Governor in Council as chairman of the Panel and one of whom shall be designated by the Lieutenant Governor in Council as vice-chairman.

Remuneration

(4) The remuneration, benefits and allowances of the members of the Panel shall be determined by the Lieutenant Governor in Council.

Officers and
employees

R.S.O. 1980,
c. 108

(5) The chairman of the Panel, subject to such guidelines as may be established by the Management Board of Cabinet and subject to the provisions of the *Crown Employees Collective Bargaining Act*, may establish job classifications, personnel qualifications and ranges for remuneration and benefits for officers and employees of the Panel, and the chairman may appoint, promote and employ the same in conformity with the classifications, qualifications and ranges for remuneration and benefits so established by the chairman.

Recovery of
costs and
expenses

(6) The costs and expenses associated with the administration of the Panel, including the remuneration and expenses of

its members, officers and employees, shall be paid by the Ministry of Labour and shall be chargeable by the Ministry to the Board and the costs and expenses shall form part of the administrative expenses of the Board.

(7) It shall be the function of the Panel, Functions

- (a) to investigate possible industrial diseases;
- (b) to make findings as to whether a probable connection exists between a disease and an industrial process, trade or occupation in Ontario;
- (c) to create, develop and revise criteria for the evaluation of claims respecting industrial diseases; and
- (d) to advise on eligibility rules regarding compensation for claims respecting industrial diseases.

(8) The Panel may establish special panels to investigate matters arising out of its functions under subsection (7) and may appoint *ad hoc* members who are specialists in particular diseases and in industrial processes to such special panels which shall report thereon to the Panel. Special panels

(9) The Panel shall determine its own priorities, practice and procedure and shall not be subject to or affected in any way by the *Statutory Powers Procedure Act*, or by any rules made under it. Practice and procedure
R.S.O. 1980, c. 484

(10) The Panel shall report its findings to the Board. Report to Board

(11) Before accepting or rejecting any findings of the Panel, the Board shall publish in *The Ontario Gazette* a notice setting forth the nature of the findings and calling for comments, briefs and submissions thereon to be filed with the Board within sixty days of the publication of the notice or within such longer period as the Board may specify in the notice. Notice of findings

(12) Upon the expiry of the period allowed for the filing under subsection (11), the Board may accept the findings of the Panel with or without amendments or may reject the findings. Acceptance

(13) Where the findings of the Panel are accepted under subsection (12) with amendments or rejected, the Board need not give any further notice under subsection (11). Idem

Publication
of findings

(14) Where the Board accepts or rejects the findings of the Panel, notice of the Board's acceptance or rejection, with reasons therefor, shall be published in *The Ontario Gazette*.

Annual
report

(15) The Panel shall, after the close of each year, file with the Minister of Labour an annual report upon the affairs of the Panel, and the Minister shall cause a copy of the report to be laid before the Assembly if it is in session or, if not, at the next ensuing session.

Office of
Worker
Adviser

86q.—(1) The Minister of Labour shall establish an office to be available to any person who is or has been a claimant for benefits under this Act and the office shall be known as the "Office of the Worker Adviser".

Idem

(2) The Minister shall pay such remuneration and expenses as may be required to carry out such functions as may be assigned to the Office of the Worker Adviser by the Minister.

Idem

(3) The Board shall reimburse the Minister for the remuneration and expenses referred to in subsection (2).

Office of
Employer
Adviser

86r.—(1) The Minister of Labour shall establish an office to be known as the "Office of the Employer Adviser" and shall pay such remuneration and expenses as may be required to carry out such functions as may be assigned to it by the Minister.

Idem

(2) The Board shall reimburse the Minister for the remuneration and expenses referred to in subsection (1).

French
language
services

86s. Services under this Act shall, where appropriate, be made available in the French language.

33. Section 113 of the said Act is amended by striking out "*Trustee Act*" in the eighth line and inserting in lieu thereof "*Pension Benefits Act*".

34.—(1) Subsection 122 (9) of the said Act is repealed and the following substituted therefor:

Presumption

(9) If the worker at or before the date of the disablement was employed in any process mentioned in the second column of Schedule 3 and the disease contracted is the disease in the first column of the Schedule set out opposite to the description of the process, the disease shall be deemed to have been due to the nature of that employment unless the contrary is proved.

(9a) If the worker at or before the date of the disablement was employed in any process mentioned in the second column of Schedule 4 and the disease contracted is the disease in the first column of the Schedule set out opposite to the description of the process, the disease shall be conclusively deemed to have been due to the nature of the employment. Idem

(2) Subsection 122 (12) of the said Act is repealed and the following substituted therefor:

(12) Notwithstanding any other provision of this Act, the Board may enter into an agreement with the appropriate authority in any jurisdiction in Canada to provide for the apportionment of the costs of the claims for industrial diseases for workers who have had exposure employment in more than one Canadian jurisdiction. Agreements
for cost
sharing

(3) Subsection 122 (16) of the said Act is amended by inserting after "3" in the third line "or 4".

35. Section 125 of the said Act is amended by adding thereto the following subsections:

(2) The payments and deposits referred to in sections 29 and 33 shall be invested in any such securities as a trustee may invest in under the *Pension Benefits Act*. Investments

R.S.O. 1980,
c. 373

(3) The Board, where it considers proper, may add to the amount payable by an employer under subsection (1) a percentage or sum for the purpose of raising special funds and the Board may use such moneys to meet a loss or relieve any employer in Schedule 2 from all or part of the costs arising from any disaster or other circumstance where, in the opinion of the Board, it is proper to do so. Special
funds

36. Section 131 of the said Act is repealed and the following substituted therefor:

131. This Part does not apply to domestics or their employers to whom Part I applies. Domestics

37. The said Act is further amended by adding thereto the following Part:

PART III

132. Subject to this Part, this Act, as it read immediately before the coming into force of this section, continues to apply to personal injury by accident and to an industrial disease where the accident or disease occurred before the day Transition

this section comes into force, and to death resulting from injury or industrial disease where the death occurred before the coming into force of this section.

Repeals

133.—(1) Sections 21 and 22, subsection 36 (2) and sections 37, 42 and 49 of this Act, as continued by section 132, are repealed.

Transition

(2) Subsection 36 (2) and section 37 of this Act, as they read immediately before the coming into force of this section, apply to a dependent widow or widower, or a dependent common-law wife or husband who remarried or married, as the case may be, before the coming into force of this section.

Temporary disability adjustment

(3) Where a worker is in receipt of temporary disability benefits on the day this section comes into force, the Board shall adjust the rate of compensation by adding thereto an additional 5 per cent but the compensation rate resulting from the adjustment shall not exceed the maximum established by sections 39 and 45, as continued by section 132.

s. 40,
re-enacted

134. Section 40 of this Act, as continued by section 132, is repealed and following substituted therefor:

Temporary disability subsequent to permanent disability

40. Where a worker, who has become entitled to benefits under this Act and has returned to employment, becomes entitled to payment for temporary disability by reason of any matter arising out of the original accident, the compensation payable for such temporary disability shall be paid on either the average weekly earnings at the date of the accident or the average weekly earnings at the date of the most recent employment of the worker calculated in the manner set out in section 39, whichever is the greater.

s. 41 (2),
re-enacted

135. Subsection 41 (2) of this Act, as continued by section 132, is repealed and the following substituted therefor:

Idem

(2) In determining the amount to be paid under clause (1) (b), the Board shall have regard to any payments the worker receives under the Canada Pension Plan, and where subclause (1) (b) (i) or (ii) applies, the compensation shall be a periodic amount proportionate to the degree of earnings impairment resulting from the injury as determined by the Board and subsection 43 (4) applies.

s. 43 (4, 5),
re-enacted

136. Subsections 43 (4) and (5) of this Act, as continued by section 132, are repealed and the following substituted therefor:

(4) Where the impairment of the earning capacity of the worker does not exceed 10 per cent of the worker's earning capacity and the worker does not elect to receive compensation by a weekly or other periodical payment, the Board shall, unless the Board decides that it would not be to the advantage of the worker to do so, direct that such lump sum as may be considered to be the equivalent of the periodic payment shall be paid to the worker.

Lump
sum

(5) Notwithstanding subsection (1), where the impairment of earning capacity of the worker is significantly greater than is usual for the nature and degree of injury, the Board may supplement the amount awarded for permanent partial disability for such period as the Board may fix unless the worker,

Periodic
payments

- (a) fails to co-operate in or is not available for a medical or vocational rehabilitation program which would, in the Board's opinion, aid in getting the worker back to work; or
- (b) fails to accept or is not available for employment which is available and which in the opinion of the Board is suitable for the worker's capabilities.

(5a) In calculating the amount of the supplement under subsection (5), the Board shall have regard to the difference between the average earnings of the worker before the accident and the average earnings after the accident and the compensation shall be a weekly or other periodic payment of 75 per cent of the difference, but the total of such supplement and the award under subsection (1) shall not exceed the like proportion of 75 per cent of the worker's pre-accident average earnings, and the Board shall have regard to the effect of inflation on the pre-accident earnings rate and to any payments the worker receives under the Canada Pension Plan.

Idem

(5b) Notwithstanding subsections (1) and (5), where the impairment of earnings capacity for an older worker is significantly greater than is usual for the nature and degree of the worker's injury and, where in the opinion of the Board, the worker can not return to work and is unlikely to benefit from a vocational rehabilitation program which would lead to employment, the Board may supplement the amount awarded for permanent partial disability with an amount not exceeding the old age security benefits that would be payable under section 3 of the *Old Age Security Act* (Canada), and amendments thereto, as if the worker were eligible therefor, and such supplement may continue until the worker is eligible for such old age security benefits or until the worker returns to employment.

Older
workers

R.S.C. 1970,
c. 0-6

Idem

(5c) A supplement awarded under subsection (5b) shall be a weekly or other periodic payment and the total sum of such supplement and the award under subsection (1) shall not exceed the like proportion of 75 per cent of the worker's pre-accident average earnings and, in calculating the amount of the supplement, the Board shall have regard to any payments the worker receives under the Canada Pension Plan.

Effect of
C.P.P.

(5d) Notwithstanding subsection 41 (2), as re-enacted by section 135, or subsection (5a) or (5c) of this section, the fact that a worker is receiving payments under the Canada Pension Plan shall not be a bar to receiving payments under section 41, as continued by section 132, or subsection (5) or (5b) of this section and the Board in having regard to payments received by a worker under the Canada Pension Plan shall have regard only to those payments received by the worker with respect to a disability arising from the injury.

Application
of certain
sections

137.—(1) Sections 50 and 55 of this Act, as re-enacted or amended by sections 13 and 14 of the *Workers' Compensation Amendment Act, 1984*, being chapter 58, apply to this Act as continued by section 132.

Idem

(2) Sections 21 and 56 to 86s of this Act, as amended, repealed, enacted or re-enacted by sections 8 and 15 to 32 of the *Workers' Compensation Amendment Act, 1984*, being chapter 58, apply to this Act as continued by section 132.

Commence-
ment

(3) Subsection (2) comes into force on the day that section 32 of the *Workers' Compensation Amendment Act, 1984*, being chapter 58, comes into force.

R.S.O. 1980,
c. 539

38. Where an application or appeal has been heard by the Board or a panel thereof pursuant to sections 75 and 77 of the *Workers' Compensation Act*, as those sections read immediately prior to the coming into force of this section, and a final decision or action thereon has not been made or taken before the day this section comes into force, the Board or a panel thereof may carry out and complete any duties or responsibilities and exercise any powers in connection with the application or appeal as though this Act had not been enacted.

39. Clause 9 (b) of the *Human Rights Code, 1981*, being chapter 53, is amended by striking out "or" at the end of subclause (iii), by adding "or" at the end of subclause (iv) and by adding thereto the following subclause:

R.S.O. 1980,
c. 539

(v) an injury or disability for which benefits were claimed or received under the *Workers' Compensation Act*.

40. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

41. The short title of this Act is the *Workers' Compensation Amendment Act, 1984*. Short title

Bill 102

An Act respecting the Sale of Lands for Arrears of Municipal Taxes

The Hon. C. Bennett
Minister of Municipal Affairs and Housing

1st Reading June 12th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is to establish one system for the sale of land with respect to which tax arrears are owed to a municipality. The Bill replaces the two different systems now in existence under the *Municipal Act* and *Municipal Affairs Act*.

Among the principal features of the Bill are the following:

1. The Act contains an extensive definition section. Particularly important are the definitions of "cancellation price", "real property taxes" and "tax arrears". (s. 1 (1))
2. The Act applies to sales of land for tax arrears owed to school boards in areas without municipal organization. (s. 1 (2))
3. The treasurer of a municipality to which any part of tax arrears are owed on the 1st day of January in the third year in respect of improved land or in the second year in respect of vacant land following the year in which the real property taxes become payable may commence proceedings by registering a tax arrears certificate in the proper land registry office. (s. 3 (1))
4. Within sixty days of the registration of a tax arrears certificate, the treasurer is required to send notices to interested parties advising them that a tax arrears certificate has been registered. (s. 4)
5. Any person may prevent a sale by paying the cancellation price within one year from the day of the registration of a tax arrears certificate. (s. 5)
6. An owner may prevent a sale by either paying the cancellation price or entering into an agreement with the municipality for an extension of the time in which the owner has to pay the cancellation price. (ss. 5, 8)
7. The treasurer, 280 days after the registration of the tax arrears certificate, will be required to send a second notice to parties who were entitled to receive a notice under section 4 warning them that the land will be sold unless the cancellation price is paid before the expiry of the one-year period following the registration of the tax arrears certificate. (s. 9 (1))
8. If the cancellation price has not been paid and no extension agreement has been entered into one year from the date of the registration of the tax arrears certificate, the treasurer must advertise the land for sale in *The Ontario Gazette* and the local press. (s. 9 (2))
9. A sale will be by public tender or public auction conducted in accordance with the regulations made under the Act and a tax deed must be registered in the name of the successful purchaser or, if there is no successful purchaser, the land will vest in the municipality. (s. 9 (3))
10. The registration of the tax deed or notice of vesting vests the land in the successful purchaser or the municipality, as the case may be, free and clear of all interests except those of the Crown in right of Canada or in right of Ontario, easements and restrictive covenants that run with the land and any interest or title acquired by adverse possession by abutting owners. (s. 9 (5))
11. The proceeds of the sale will be applied in accordance with section 10. Where the proceeds exceed the cancellation price, the excess will be paid into the District Court and paid out in accordance with an order of the court. (s. 10)
12. A tax purchaser's title will be protected from claims against the land that arose before the sale. (s. 13)

13. The Bill will permit local municipalities to delegate the collection of tax arrears to the upper tier municipalities in which they are situate. (s. 17)
14. The rules to be followed in selling land for tax arrears will be prescribed by regulation. (s. 18)
15. Complementary amendments are made to other Acts to abolish existing tax sale procedures. (ss. 19-22)
16. Provision is made for the continuance of existing tax sale procedures with respect to proceedings commenced before the new tax sale procedures come into effect. (s. 23)

Bill 102

1984

An Act respecting the Sale of Lands for Arrears of Municipal Taxes

CONTENTS

Section	Section
1. Interpretation and application	11. Methods of giving notice
2. Administration	12. Voidable proceedings
3. Registration of tax arrears certificate	13. Effect of registration of tax deed or notice of vesting
4. Notice of registration	14. Mining rights
5. Cancellation of tax arrears certificate	15. Scale of costs
6. Accounting for cancellation price	16. Treasurer, immunity and delegation of duties
7. Effect of tax arrears cancellation certificate	17. Collection of tax arrears by upper tier municipality
8. Extension agreements	18. Regulations
9. Public sale	19-22. Complementary repeals and amendments
10. Application of proceeds	23. Transition
	24. Commencement
	25. Short title

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpretation

- (a) “cancellation price” means an amount equal to all the tax arrears owing at any time in respect of land together with all current real property taxes owing, interest and penalties thereon and all reasonable costs incurred by the municipality, after the treasurer becomes entitled to register a tax arrears certificate under section 3, in proceeding under this Act or in contemplation of proceeding under this Act and, without restricting the generality of the foregoing, may include,

- (i) legal fees and disbursements,

- (ii) the costs of preparing an extension agreement entered into under section 8,
- (iii) the costs of preparing a survey where such is required to register any document under this Act, and
- (iv) a reasonable allowance for costs that may be incurred subsequent to advertising under section 9;

1984, c. 11

- (b) “District Court” means, until the *Courts of Justice Act, 1984* comes into force, the county or district court for the jurisdiction in which the land that is subject to proceedings under this Act is located and thereafter means the District Court sitting in the county or district in which the land is located;
- (c) “improved land” means a parcel of land separately assessed that has a building thereon, and includes any land in actual use for agricultural purposes, although there is no building thereon;
- (d) “municipality” means the corporation of a city, town, village, township or improvement district;
- (e) “notice of vesting” means a notice of vesting prepared under subsection 9 (3) and includes the title conferred by the registration of the notice of vesting;
- (f) “prescribed” means prescribed by the regulations made under this Act;
- (g) “public sale” means a sale either by public auction or public tender conducted in accordance with this Act and the prescribed rules;
- (h) “real property taxes” means the amount of taxes levied on real property under the *Municipal Act*, the *Education Act* and the *Ontario Unconditional Grants Act*, and any amounts owed under the *Local Improvement Act*, the *Drainage Act*, the *Tile Drainage Act* and the *Shoreline Property Assistance Act* with respect to the real property and includes any amounts deemed to be taxes on real property by or under any other general or special Act;

- (i) “register” means register in the proper land registry office and “registered” and “registration” have a corresponding meaning;
- (j) “tax arrears” means any real property taxes placed on or added to a collector’s roll that remain unpaid on the 1st day of January in the year following that in which they were placed on or added to the roll;
- (k) “tax arrears certificate” means a tax arrears certificate prepared under section 3;
- (l) “tax deed” means a tax deed prepared under subsection 9 (3) and includes the title conferred by the registration of the tax deed;
- (m) “treasurer” means the treasurer of the municipality to which the tax arrears are owed;
- (n) “vacant land” means a parcel of land separately assessed that has no building thereon, but does not include any improved land.

(2) Where, under the *Education Act*, an officer or collector has the powers and duties of a treasurer and the board has the powers and duties of the council of a municipality, this Act and the regulations made under this Act apply to tax arrears and to every sale of land for tax arrears owed to the board.

Application
to tax sales
under
R.S.O. 1980.
c. 129

(3) For the purposes of this Act,

Register of
title, abstract
index

- (a) “register of title” and “abstract index” include an instrument received for registration before the closing of the land registry office on the day the tax arrears certificate was registered notwithstanding that the instrument has not been abstracted or entered in the register or index at that time;
- (b) “index of executions” and “index of writs received for execution” include a warrant or other process or a certificate of lien that is filed with the sheriff and recorded in the index of executions under the *Land Titles Act* or in the index of writs received for execution by the sheriff, as the case may be.

R.S.O. 1980.
c. 230

2. The Minister of Municipal Affairs and Housing is responsible for the administration of this Act.

Adminis-
tration

3.—(1) Where any part of tax arrears is owing with respect to,

Registration
of tax arrears
certificate

- (a) any improved land in a municipality on the 1st day of January in the third year following that in which the real property taxes become owing; or
- (b) any vacant land in a municipality on the 1st day of January in the second year following that in which the real property taxes become owing,

the treasurer may prepare and register a tax arrears certificate in the prescribed form against the title to the land with respect to which the tax arrears are owing.

Form

(2) A tax arrears certificate shall indicate that the land described in the certificate will be sold by public sale if the cancellation price is not paid within one year following the date of the registration of the tax arrears certificate.

Escheated
land

1982, c. 4

R.S.O. 1980,
c. 95

(3) This section does not apply to land that is vested in the Crown because of an escheat or forfeiture under the *Business Corporations Act, 1982* or the *Corporations Act* or any predecessor of those Acts before the registration of a tax arrears certificate, but where land escheats or becomes forfeited under either of those Acts to the Crown after the registration of the tax arrears certificate, the tax arrears certificate continues to have effect and the land may be sold under this Act for tax arrears.

What lands
certificate
may embrace

(4) A tax arrears certificate in respect of improved land shall not embrace more than one such property or any vacant land that is a separate parcel, and a tax arrears certificate in respect of vacant land shall not embrace lots according to more than one registered plan or any improved land.

Notice of
registration

4.—(1) Within sixty days of the registration of a tax arrears certificate, the treasurer shall send or cause to be sent a notice in the prescribed form of the registration of the certificate to the following persons:

1. The assessed owner of the land.
2. In the case of improved land, the assessed tenants in occupation of the land.
3. Where the land is registered under the *Land Titles Act*, every person appearing by the register of title and by the index of executions to have an interest in the land as of the time of closing of the land registry office on the day the tax arrears certificate was registered other than a person who has an interest referred to in clause 9 (5) (a) or (b).

R.S.O. 1980,
c. 230

4. Where the *Registry Act* applies to the land, every person appearing by the abstract index and by the index of writs received for execution by the sheriff of the county or district in which the land is situate to have an interest in the land as of the time of closing of the land registry office on the day the tax arrears certificate was registered other than a person who has an interest referred to in clause 9 (5) (a) or (b). R.S.O. 1980,
c. 445

(2) Where a notice is sent under this section to a person appearing by the records of the land registry office to be the owner of the land or to a person who is an assessed tenant in occupation of the land, a notice shall also be sent to the spouse of such person and, where this subsection is complied with, section 43 of the *Family Law Reform Act* shall be deemed to have been complied with. Spouse of
owner

R.S.O. 1980,
c. 152

(3) Where a notice has been sent under subsection (1) to a corporation, the treasurer shall, within the time limit in subsection (1), send a copy of the notice to the Public Trustee. Corporations

(4) The treasurer, forthwith after complying with subsections (1) to (3), shall make and register a statutory declaration in the prescribed form stating the names and addresses of the persons to whom notice was sent. Statutory
declaration

(5) A person is not entitled to notice under this section if, Limitation

- (a) after a reasonable search of the records mentioned in subsection 11 (1), the treasurer is unable to find the person's address and the treasurer is not otherwise aware of the address; or
- (b) the person has expressly waived the right to notice, either before or after the notice should have been sent.

5.—(1) Before the expiry of the one-year period mentioned in subsection 9 (1), any person may have the tax arrears certificate cancelled by paying to the municipality the cancellation price as of the date the payment is tendered and after the expiry of the one-year period the land shall be sold or vested in the municipality in accordance with section 9. Cancellation
of tax arrears
certificate

(2) Where payment has been made under subsection (1), the treasurer shall forthwith register a tax arrears cancellation certificate in the prescribed form. Cancellation
certificate

- Lien (3) If the cancellation price is paid by a person entitled to receive notice under subsection 4 (1) or an assignee of any such person, other than the owner of the land or the spouse of the owner, the person has a lien on the land concerned for the amount paid.
- Priority of lien (4) A lien under subsection (3) has priority over the interest in the land of any person to whom notice was sent under section 4.
- Contents of certificate (5) Where there is a lien under subsection (3), the tax arrears cancellation certificate shall state that the person named therein has a lien on the land.
- Accounting for cancellation price **6.—**(1) Except where the cancellation price has been determined in accordance with a by-law passed under section 15, a person who pays the cancellation price before the expiry of the one-year period mentioned in subsection 9 (1), by a written request made within thirty days after making the payment, may require the treasurer to provide an itemized breakdown of the calculation of the cancellation price that has been paid.
- Idem (2) Where the treasurer fails to provide the itemized breakdown of the calculation within thirty days of the request or where the person who made the request is of the opinion that the cancellation price so calculated has not been calculated properly or that the costs included in the cancellation price by the municipality as costs incurred in proceeding under this Act are unreasonable, the person who made the request may apply to the District Court for an accounting of the cancellation price.
- Idem (3) Upon an application for an accounting under subsection (2), the court shall determine the matter and, if the court determines that the cancellation price was not calculated properly or the costs included in the cancellation price are unreasonable, it may make an order setting a cancellation price which is proper and reasonable but no such order shall relieve a taxpayer of any liability to pay any validly imposed real property taxes.
- Effect of tax arrears cancellation certificate **7.** Unless otherwise shown in the tax arrears cancellation certificate, the certificate, when registered, is conclusive proof of the payment of the cancellation price as of the date set out in it.
- Extension agreements **8.—**(1) A municipality, by a by-law passed after the registration of the tax arrears certificate and before the expiry of the one-year period mentioned in subsection 9 (1), may

authorize an extension agreement with the owner of the land extending the period of time in which the cancellation price is to be paid and the agreement may be subject to such terms and conditions relating to payment as are set out in it but,

- (a) it shall not reduce the amount of the cancellation price; or
- (b) prohibit any person from paying the cancellation price at any time.

(2) Every extension agreement entered into under subsection (1) shall state, Mandatory contents

- (a) when and under what conditions it shall cease to be considered a subsisting agreement;
- (b) that any person may pay the cancellation price at any time; and
- (c) that it terminates upon payment of the cancellation price by any person.

(3) The period during which there is a subsisting extension agreement shall not be counted by the treasurer in calculating the periods mentioned in subsection 9 (1). Calculation of time

(4) The treasurer, on the request of any person, shall permit the person to inspect a copy of an extension agreement entered into under this section and shall provide copies thereof at the same rate as is charged under section 78 of the *Municipal Act*. Inspection of extension agreement
R.S.O. 1980, c. 302

(5) When the terms of an extension agreement have been fulfilled, the treasurer shall forthwith register a tax arrears cancellation certificate in the prescribed form. Cancellation certificate

9.—(1) If the cancellation price remains unpaid at the expiry of the period of 280 days from the day of the registration of the tax arrears certificate, the treasurer, within thirty days of the expiry of the 280 day period, shall send or cause to be sent to the persons entitled to receive notice under section 4 a final notice in the prescribed form that the land will be advertised for public sale unless the cancellation price is paid before the end of the one-year period following the date of the registration of the tax arrears certificate. Public sale

(2) If, at the end of the one-year period following the date of the registration of the tax arrears certificate, Advertisement

- (a) the cancellation price remains unpaid; and
- (b) there is no subsisting extension agreement,

the land shall be offered for public sale by public auction or public tender, as the treasurer shall decide, and the treasurer shall forthwith,

- (c) make a statutory declaration in the prescribed form stating the names and addresses of the persons to whom notice was sent under subsection (1);
- (d) advertise the land for sale once in *The Ontario Gazette* and once a week for four weeks in a newspaper that, in the opinion of the treasurer, has such circulation within the municipality as to provide reasonable notice of the sale or, where there is no such newspaper, the treasurer shall post notice in the municipal office and one other prominent place in the municipality and the advertisement shall be in the prescribed form.

Conduct
of sale

(3) The treasurer, in accordance with the prescribed rules, shall conduct a public sale and determine whether there is a successful purchaser and,

- (a) where there is a successful purchaser, the treasurer shall prepare and register a tax deed in the prescribed form in the name of the successful purchaser or in such name as the successful purchaser may direct; or
- (b) where there is no successful purchaser, the treasurer shall prepare and register, in the name of the municipality, a notice of vesting in the prescribed form.

Statutory
declaration

(4) The treasurer shall make and register, at the time of registering the tax deed or notice of vesting, a statutory declaration in the prescribed form stating that,

- (a) the tax arrears certificate was registered with respect to the land at least one year before the land was advertised for sale;
- (b) notices were sent and the statutory declarations were registered in substantial compliance with this Act and the regulations made under this Act;

- (c) the cancellation price was not paid within one year following the date of the registration of the tax arrears certificate; and
- (d) the land was advertised for sale, in substantial compliance with this Act and the regulations made under this Act.

(5) A tax deed or notice of vesting, when registered, vests in the person named therein or in the municipality, as the case may be, an estate in fee simple in the land, together with all rights, privileges and appurtenances and free from all estates and interests, subject only to,

Effect of conveyance

- (a) easements and restrictive covenants that run with the land;
- (b) any estates and interests of the Crown in right of Canada or in right of Ontario; and
- (c) any interest or title acquired by adverse possession by abutting landowners before the registration of the tax deed or notice of vesting.

(6) A tax deed or notice of vesting, when registered, vests in the person named therein or the municipality, as the case may be, any interest in or title to adjoining land acquired by adverse possession before the registration of the tax deed or notice of vesting if the person originally acquiring the interest or title by adverse possession did so as a consequence of possession of the land described in the tax deed or notice of vesting.

Idem

(7) A tax deed does not,

No warranty

- (a) impose an obligation on the municipality to provide vacant possession;
- (b) invalidate or in any way affect the collection of a rate that has been assessed, imposed or charged on the land under any Act by the municipality before the registration of the tax deed and that accrues or becomes due after the registration of the tax deed.

(8) The council of the municipality to which the tax arrears are owed may by resolution authorize the municipality to bid at or submit a tender in a public sale conducted under this section if the municipality requires the land for a municipal purpose.

Municipal bid or tender

Inspection of
statutory
declaration

R.S.O. 1980,
c. 302

(9) The treasurer, on the request of any person, shall permit the person to inspect a copy of the statutory declaration made under clause (2) (c) and shall provide copies thereof at the same rate as is charged under section 78 of the *Municipal Act*.

Power of
treasurer

(10) Notwithstanding anything in the prescribed rules, except the rules relating to the determination of the successful purchaser, the treasurer, in conducting a sale under this Act, may do all things as are, in his or her opinion, necessary to ensure a fair and orderly sale.

Value of
land

(11) The treasurer is not bound to inquire into or form any opinion of the value of the land before conducting a sale under this Act and the treasurer is not under any duty to obtain the highest or best price for the land.

Application
of proceeds

10.—(1) The proceeds of a sale under section 9 shall be,

- (a) firstly, applied to pay the cancellation price;
- (b) secondly, paid to all persons, other than the owner, having an interest in the land according to their priority at law; and
- (c) thirdly, paid to the person who immediately before the registration of the tax deed was the owner of the land.

Payment
into court

(2) The treasurer shall pay the proceeds of sale, minus the cancellation price, into the District Court together with a statement in the prescribed form outlining the facts under which the payment into court is made.

Payment out
of court

(3) Any person claiming entitlement under clause (1) (b) or (c) may apply to the District Court within one year of the payment into court under subsection (2) for payment out of court of the amount to which the person is entitled.

Idem

(4) On an application under subsection (3), the court shall determine all of the entitlements to receive payments out of the proceeds of sale.

Forfeiture

(5) Where no person makes an application under subsection (3) within the one-year period referred to in that subsection, the amount paid into court under subsection (2) shall be deemed to be forfeited to the municipality and the municipality may apply to the District Court for payment out of court of the amount that was paid in.

(6) Money received by a municipality under subsection (5) shall be paid into the general funds of the municipality. Payment into general funds

11.—(1) Any notice required to be sent to any person under this Act may be given by personal delivery or, in the alternative, may be sent by certified or registered mail, Methods of giving notice

(a) in the case of the assessed owner, to the address of the person as shown on the last returned assessment roll of the municipality;

(b) in the case of any person whose interest is registered against the title of the land, to the address of the person furnished under section 166 of the *Land Titles Act* or section 37 of the *Registry Act* or where no such address has been furnished, addressed to the solicitor whose name appears on the registered instrument by which that person appears to have an interest;

R.S.O. 1980,
cc. 230, 445

(c) in the case of a person appearing to have an interest in the land by the index of executions with respect to land registered under the *Land Titles Act* or by the index of writs received by the sheriff in the case of land registered under the *Registry Act*, to the address of the person or person's solicitor as shown in the index of executions or in the records of the sheriff of the county or district in which the land is situate;

R.S.O. 1980,
cc. 230, 445

(d) in the case of a spouse of the person appearing by the records of the land registry office to be the owner of the land, addressed to "the spouse of (*name of person*)" at the usual or last known address of such spouse or, where that address is not known to the treasurer, at the address of the land; and

(e) in the case of the Public Trustee, addressed to him or her at his or her office in Toronto.

(2) Any notice required to be sent under this Act to an assessed tenant in occupation of the land may be given by personal delivery or by ordinary mail addressed to "the occupant and spouse" at the address of the land. Idem

(3) Where there are six or more assessed tenants in occupation of the land, the notice referred to in subsection (2) may be given by placing a placard containing the terms of the notice in a conspicuous place on the land and the placing of Idem

the placard shall be deemed to be sufficient service of the notice.

Statutory
declaration,
effect

(4) A statutory declaration,

- (a) registered under subsection 4 (4) or made under clause 9 (2) (c) is *prima facie* proof that the notices required to be sent were sent to the persons named in the statutory declaration and received by them;
- (b) registered under subsection 9 (4) is conclusive proof of the matters referred to in clauses 9 (4) (a) to (d).

Receipt of
notice

(5) Nothing in this Act requires the treasurer to ensure that a notice that is properly sent under this Act is received by the person to whom it was sent.

Voidable
proceedings

12.—(1) No proceedings for the sale of land under this Act are void by reason of any neglect, omission or error but, subject to this section and to section 13, any such neglect, omission or error may render the proceedings voidable.

Idem

(2) Subject to subsection (4) and to section 13,

- (a) a failure on the part of the treasurer to substantially comply with section 4 or subsection 9 (1) of this Act; or
- (b) an error or omission in the registration or sale of the land, other than an error or omission mentioned in subsection (5),

renders the proceedings under this Act voidable.

Duty of
treasurer

(3) Where, before the registration of a tax deed or notice of vesting, the treasurer becomes aware of a failure, error or omission referred to in subsection (2), the treasurer shall forthwith register a tax arrears cancellation certificate in the prescribed form but this subsection does not apply so as to prevent the treasurer from registering a new tax arrears certificate and proceeding under this Act.

Actual
prejudice

(4) Proceedings for the sale of land under this Act are not voidable unless the person complaining of any neglect, error or omission establishes that he or she suffered actual prejudice as a result of the neglect, error or omission.

(5) No proceedings under this Act are rendered voidable by reason of,

No duty to
distrain,
effect of
miscalcu-
lation
of cancel-
lation
price

- (a) a failure on the part of the treasurer to distrain for any reason or take any other action for the collection of taxes;
- (b) an error in the cancellation price other than a substantial error;
- (c) any error in the notices sent or delivered under this Act if the error has not substantially misled the person complaining of the error;
- (d) any error in the publishing or posting of advertisements if the error has not substantially misled the person complaining of the error; or
- (e) any error in the description of the land in the tax arrears certificate if the error has not substantially misled the person complaining of the error.

(6) Where, in the opinion of the treasurer,

Treasurer
may halt
proceedings

- (a) it is not in the financial interests of the municipality to continue with proceedings under this Act; or
- (b) because of some neglect, error or omission, it is not practical or desirable to continue proceedings under this Act,

the treasurer may register a cancellation certificate in the prescribed form, but this subsection does not apply so as to prevent the treasurer from registering a new tax arrears certificate and proceeding under this Act.

13.—(1) Subject to proof of fraud, every tax deed and notice of vesting, when registered, is final, binding and conclusive and not subject to challenge for any reason including, without limiting the generality of the foregoing,

Effect of
registration
of tax deed
or notice of
vesting

- (a) the invalidity of any assessment upon which the tax arrears were based; and
- (b) the breach of any requirements, including notice requirements, imposed by this or any other Act or otherwise by law,

and no action may be brought for the recovery of the land after the registration of the tax deed or notice of vesting if the

statutory declaration required by subsection 9 (4) has been registered.

Idem

(2) Subsection (1) does not apply so as to prevent a person from bringing an action for damages against the municipality.

Mining
rights

R.S.O. 1980,
c. 268

14.—(1) Where land, the mining rights in which are liable for a tax imposed under the *Mining Act* or a predecessor of that Act, is sold for taxes or is vested in a municipality under this Act or under a predecessor of this Act, on or after the 1st day of April, 1954, such sale or vesting creates a severance of the surface rights from the mining rights, and only the surface rights in the land pass to the tax sale purchaser or vest in the municipality, as the case may be, and the sale or registration does not in any way affect the mining rights.

Idem

R.S.O. 1980,
c. 269

R.S.O. 1980,
c. 302

R.S.O. 1980,
c. 303

(2) Notwithstanding subsection (1) or anything else in this or any other Act but subject to any forfeiture to the Crown legally effected under the *Mining Tax Act* or a predecessor of that Act, where land the mining rights in which were liable for area tax under the *Mining Tax Act* or its predecessor, was sold for taxes under the *Municipal Act* or any predecessor thereof or was vested in a municipality upon registration of a tax arrears certificate under the *Municipal Affairs Act* or any predecessor of that Act before the 1st day of April, 1954, and there had been, before the sale or registration, no severance of the surface rights from the mining rights, and the sale or certificate purported to vest all rights in the land in the tax sale purchaser or in the municipality, as the case may be, such sale or certificate shall be deemed to have vested in the tax sale purchaser or in the municipality, without severance, both the surface and mining rights.

Scale of
costs

15. The council of a municipality, in lieu of charging the municipality's actual costs in determining any cancellation price, may by by-law fix a scale of costs to be charged as the reasonable costs of proceedings under this Act, which scale shall be designed to meet only the anticipated costs of the municipality.

Treasurer,
immunity
from
civil actions

16.—(1) No action or other proceeding for damages shall be brought against the treasurer or any officer or employee of the municipality acting under the treasurer's authority as a result of any act done in good faith in the performance or intended performance of any duty or in the intended exercise of any power under this Act or the regulations made under this Act or any neglect or default in the performance or exercise in good faith of such duty or power but any such action or proceeding may be brought against the municipality.

(2) The treasurer may delegate, in writing, to any officer or employee of the municipality any power or duty granted to or vested in the treasurer under this Act.

Delegation of duties

17.—(1) The council of any county may by by-law enter into an agreement with any local municipality within the county authorizing the county treasurer to perform the duties of a treasurer under this Act in respect of land within the local municipality and providing for,

Collection of tax arrears by county

- (a) the payment to the county of that portion of the cancellation price that reflects the reasonable costs incurred by the county;
- (b) the method of cancelling any such agreement; and
- (c) such other matters as are necessary to carry out the agreement.

(2) Where an agreement under this section is in force, the county treasurer shall exercise the powers and duties of the treasurer under this Act in respect of lands within the local municipality and only the county council may pass by-laws under sections 8 and 15.

County treasurer

(3) Where an agreement under this section is in force, the treasurer of the local municipality shall provide the county treasurer with such information and assistance as is needed by the county treasurer to exercise the powers and duties of a treasurer under this Act.

Treasurer of local municipality

(4) Subject to the terms of the agreement, the county or the local municipality may by by-law cancel at any time an agreement entered into under this section.

Cancellation of agreement

(5) Where a by-law is passed under subsection (4), the clerk of the municipality passing the by-law shall forthwith send a certified copy of the by-law by registered mail to the treasurer of the other municipality.

Notice of cancellation

(6) Where an agreement under this section is cancelled, the treasurer of the local municipality shall assume the duties of a treasurer under this Act in respect of all land within the municipality except the land referred to in subsection (7).

Effect of repeals

(7) Where an agreement under this section is cancelled, any proceedings under this Act started by the treasurer of the county in respect of land within the local municipality affected by the repeal or cancellation shall be continued and concluded by the county treasurer.

Idem

Books,
records

(8) As soon as practical after the coming into force of this section, the treasurers of the counties of Frontenac, Hastings, Huron, Kent, Perth and Renfrew shall provide the treasurer of every local municipality whose officers did not have power, immediately before the coming into force of this section, to sell land for arrears of taxes with such collectors' rolls, receipt books, correspondence and other records as will allow the treasurer of the local municipality to collect tax arrears.

Other upper
tier
municipalities

(9) This section applies with necessary modifications to every metropolitan, regional and district municipality as if a reference to a county were a reference to such municipality.

Regulations

18.—(1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing forms and providing for their use;
- (b) prescribing rules for the sale of lands under this Act by public sale and, without restricting the generality of the foregoing, the rules,
 - (i) shall set out the method of determining a successful purchaser, and
 - (ii) may require the submission of deposits, in such amount and in such form as may be set out in the rules, and for the forfeiture and disposition thereof.

Idem

(2) A regulation passed under subclause (1) (b) (i) shall provide that a person shall not be declared to be the successful purchaser unless the person's tender or bid is equal to or greater than the cancellation price and the person pays the sale price and land transfer tax payable with respect to the sale within such period of time as may be set out in the rules.

19. Clause 6 (b), sections 20, 40 to 47, 49 and 50, subsections 64 (2) and (3) and Forms 1 to 4 of the *Municipal Affairs Act*, being chapter 303 of the Revised Statutes of Ontario, 1980, are repealed.

20.—(1) Sections 397, 400, 402 to 405, 413 to 418, 420 to 464, 466 to 472 and Form 9 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Section 399 of the said Act is amended by striking out "county or other" in the first line.

(3) Section 401 of the said Act is repealed and the following substituted therefor:

401. The treasurer of every municipality shall collect the arrears of taxes outstanding after the return of the collector's roll and may receive part payment of taxes returned to the treasurer as in arrears upon any land for any year and shall credit such payment first on account of the interest and percentage charges, if any, added to such taxes and shall credit the remainder of such payment against that part of the taxes that has been in arrears for the greatest period of time but no such payment shall be received after a tax arrears certificate has been registered under the *Municipal Tax Sales Act, 1984*.

Payments
on tax
arrears

1984, c...

(4) Section 409 of the said Act is repealed and the following substituted therefor:

409. The treasurer of a local municipality shall keep a duplicate blank receipt book, and on receipt of any sum of money for taxes on land shall deliver to the person making the payment one of such receipts, retaining the second of the set in the book, and the auditors shall examine and audit such books and accounts at least once in every year.

Treasurer
to keep
duplicate
receipt book

(5) Section 419 of the said Act is repealed and the following substituted therefor:

419. If there are to the knowledge of the treasurer goods and chattels liable to distress upon any land in arrear for taxes, he may levy the arrears of taxes and the costs by distress, and has the same authority to collect by distress as a collector has under this Act, and section 387 applies thereto.

Where
distress on
premises,
treasurer
may distraint

(6) Sections 491, 492, 493 and 494 of the said Act are repealed and the following substituted therefor:

491. Every municipality is responsible to Her Majesty, and to all other persons interested, that all money coming into the hands of the treasurer of the municipality by virtue of the treasurer's office shall be duly paid over and accounted for by the treasurer according to law.

Municipality
responsible
for such
money

492. The treasurer and the treasurer's sureties are responsible and accountable for such money to the municipality and any bond or security given by them for the duly accounting for and paying over money belonging to the municipality applies to all money mentioned in section 484 and may be enforced against the treasurer or the treasurer's sureties in case of default.

Treasurer,
etc.,
responsible
to
municipality

Bonds to
apply to
school
money

493. The bond of the treasurer and the treasurer's sureties applies to school money and to all public money of Ontario and, in case of default, Her Majesty may enforce the responsibility of the municipality by stopping payment of a like amount out of any public money that would otherwise be payable to the municipality or to the treasurer thereof, or by action against the corporation.

City, etc.,
responsible
for default
of treasurer,
etc.

494. Any person aggrieved by the default of the treasurer may recover from the municipality the amount due or payable to such person as money had and received to the person's use.

(7) Form 8 of the said Act is amended by striking out the following paragraph:

"I hereby certify that the above statement shows all arrears of taxes returned to this office against the above lands, and that no part of the lands has been sold for taxes and no certificate of tax arrears has been registered against the lands within the last eighteen months, and that the return under section 397 of the *Municipal Act* has been made for the year 19..."

and inserting in lieu thereof:

1984, c...

"I hereby certify that the above statement shows all arrears of taxes against the above lands, and proceedings have (not) been commenced under the *Municipal Tax Sales Act, 1984*."

21.—(1) Subsection 53 (1) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1982, chapter 32, section 14, is further amended by inserting after "duties" in the eleventh line "including the powers and duties with respect to the sale of land for tax arrears" and by striking out "67 (5) to (12)" in the twelfth and thirteenth lines and inserting in lieu thereof "67 (5), (6) and (12)".

(2) Subsection 67 (1) of the said Act is amended by inserting after "duties" in the seventh line "including the powers and duties with respect to the sale of land for tax arrears".

(3) Subsections 67 (6) to (11) of the said Act are repealed and the following substituted therefor:

Tax sales
officer

1984, c...

(6) The board of a district school area shall name one of its officers as the officer of the board responsible for the sale of land for tax arrears and that officer has the same powers and duties as a treasurer under the *Municipal Tax Sales Act, 1984* and the board has the same powers and duties as a council under that Act.

(4) Subsection 69 (3) of the said Act is amended by inserting after “duties” in the sixth line “including the powers and duties with respect to the sale of land for tax arrears”.

(5) Subsection 69 (6) of the said Act is amended by striking out “67 (5) to (12)” in the first line and inserting in lieu thereof “67 (5), (6) and (12)”.

(6) Subsection 99 (2) of the said Act is repealed and the following substituted therefor:

(2) Every collector has the same powers in collecting the school rate, rate-bill or subscription and is under the same liabilities and obligations and shall proceed in the same manner as a township collector in collecting rates in a township and has the same powers and duties as a treasurer under the *Municipal Tax Sales Act, 1984* and the board by which the collector is employed has the same powers and duties as a council under that Act.

Powers and
duties of
collectors

1984, c...

(7) Subsection 112 (2) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 36, is further amended by inserting after “duties” in the tenth line “including the powers and duties with respect to the sale of land for tax arrears” and by striking out “67 (5) to (12)” in the twelfth line and inserting in lieu thereof “67 (5), (6) and (12)”.

22. Subsection 17 (2) of the *Assessment Act*, being chapter 31 of the Revised Statutes of Ontario, 1980, is repealed.

23.—(1) Notwithstanding section 19 or subsection 20 (1), but subject to subsection (2), where before the day this Act comes into force, a tax arrears certificate is registered under the *Municipal Affairs Act* or a certificate is given under section 433 of the *Municipal Act* in respect of any land, the tax arrears proceedings of the applicable Act shall continue to apply to such land.

Transition

R.S.O. 1980,
cc. 303, 302

(2) Notwithstanding subsection (1), where land to which subsection (1) applies has not been the subject of a tax deed under the *Municipal Act* and has not been sold or declared necessary for municipal purposes under the *Municipal Affairs Act* by the 1st day of January, 1987, the land vests in the municipality on the day that a notice of forfeiture is registered under subsection (3).

Vesting

(3) After the 1st day of January, 1987, the treasurer shall register a notice of forfeiture in the prescribed form with respect to each parcel of land to which subsection (2) applies and the notice, when registered, vests in the municipality an

Notice of
forfeiture

estate in fee simple in the land, together with all rights, privileges and appurtenances, free from all estates and interest subject only to,

- (a) easements and restrictive covenants that run with the land;
- (b) any estates and interests of the Crown in right of Canada or in right of Ontario; and
- (c) any interest or title acquired by adverse possession by abutting landowners before the registration of the notice.

Idem

(4) A notice of forfeiture, when registered, vests in the municipality any interest in or title to adjoining land acquired by adverse possession before the registration of the notice if the person originally acquiring the interest or title by adverse possession did so as a consequence of possession of the land described in the notice.

Effect of
registration
of notice of
forfeiture

(5) Subject to proof of fraud, every notice of forfeiture, when registered, is final, binding and conclusive and not subject to challenge for any reason including, without limiting the generality of the foregoing,

- (a) the invalidity of any assessment upon which the tax arrears were based; and
- (b) the breach of any requirements, including notice requirements, imposed by this or any other Act or otherwise by law,

and no action may be brought for the recovery of the land after the registration of the notice of forfeiture.

Idem

(6) Subsection (5) does not apply so as to prevent a person from bringing an action for damages against the municipality.

Compromise
agreement

R.S.O. 1980,
c. 303

(7) Subsections (2), (3) and (4) do not apply to land that, on the 1st day of January, 1987, is the subject of a subsisting compromise agreement entered into under the *Municipal Affairs Act*.

Application
to
certain school
boards
R.S.O. 1980,
c. 129

(8) This section applies with necessary modifications to proceedings taken under the *Education Act* or any predecessor of that Act by a board authorized under such Act to collect school rates or subscriptions.

24.—(1) This Act, except sections 2 to 16 and 19 to 23, ^{Commence-}
comes into force on the day it receives Royal Assent. ^{ment}

(2) Sections 2 to 16 and 19 to 23 come into force on the 1st ^{Idem}
day of January, 1985.

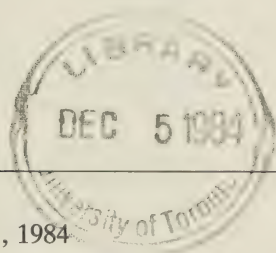
25. The short title of this Act is the *Municipal Tax Sales* ^{Short title}
Act, 1984.

Bill 102

An Act respecting the Sale of Lands for Arrears of Municipal Taxes

The Hon. C. Bennett

Minister of Municipal Affairs and Housing



<i>1st Reading</i>	June 12th, 1984
<i>2nd Reading</i>	November 26th, 1984
<i>3rd Reading</i>	
<i>Royal Assent</i>	

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

The purpose of the Bill is to establish one system for the sale of land with respect to which tax arrears are owed to a municipality. The Bill replaces the two different systems now in existence under the *Municipal Act* and *Municipal Affairs Act*.

Among the principal features of the Bill are the following:

1. The Act contains an extensive definition section. Particularly important are the definitions of "cancellation price", "real property taxes" and "tax arrears". (s. 1 (1))
2. The Act applies to sales of land for tax arrears owed to school boards in areas without municipal organization. (s. 1 (2))
3. The treasurer of a municipality to which any part of tax arrears are owed on the 1st day of January in the third year in respect of improved land or in the second year in respect of vacant land following the year in which the real property taxes become payable may, unless otherwise directed by the council of the municipality, commence proceedings by registering a tax arrears certificate in the proper land registry office. (s. 3 (1))
4. Within sixty days of the registration of a tax arrears certificate, the treasurer is required to send notices to interested parties advising them that a tax arrears certificate has been registered. (s. 4)
5. Any person may prevent a sale by paying the cancellation price within one year from the day of the registration of a tax arrears certificate. (s. 5)
6. An owner may prevent a sale by either paying the cancellation price or entering into an agreement with the municipality for an extension of the time in which the owner has to pay the cancellation price. (ss. 5, 8)
7. The treasurer, 280 days after the registration of the tax arrears certificate, will be required to send a second notice to parties who were entitled to receive a notice under section 4 warning them that the land will be sold unless the cancellation price is paid before the expiry of the one-year period following the registration of the tax arrears certificate. (s. 9 (1))
8. If the cancellation price has not been paid and no extension agreement has been entered into one year from the date of the registration of the tax arrears certificate, the treasurer must advertise the land for sale in *The Ontario Gazette* and the local press. (s. 9 (2))
9. A sale will be by public tender or public auction conducted in accordance with the regulations made under the Act and a tax deed must be registered in the name of the successful purchaser or, if there is no successful purchaser, the land will vest in the municipality. (s. 9 (3))
10. The registration of the tax deed or notice of vesting vests the land in the successful purchaser or the municipality, as the case may be, free and clear of all interests except those of the Crown in right of Canada or in right of Ontario, easements and restrictive covenants that run with the land and any interest or title acquired by adverse possession by abutting owners. (s. 9 (5))
11. The proceeds of the sale will be applied in accordance with section 10. Where the proceeds exceed the cancellation price, the excess will be paid into the District Court and paid out in accordance with an order of the court. (s. 10)
12. A tax purchaser's title will be protected from claims against the land that arose before the sale. (s. 13)

13. The Bill will permit local municipalities to delegate the collection of tax arrears to the upper tier municipalities in which they are situate. (s. 17)
14. The rules to be followed in selling land for tax arrears will be prescribed by regulation. (s. 18)
15. Complementary amendments are made to other Acts to abolish existing tax sale procedures. (ss. 19-22)
16. Provision is made for the continuance of existing tax sale procedures with respect to proceedings commenced before the new tax sale procedures come into effect. (s. 23)

Bill 102

1984

An Act respecting the Sale of Lands for Arrears of Municipal Taxes

CONTENTS

Section	Section
1. Interpretation and application	11. Methods of giving notice
2. Administration	12. Voidable proceedings
3. Registration of tax arrears certificate	13. Effect of registration of tax deed or notice of vesting
4. Notice of registration	14. Mining rights
5. Cancellation of tax arrears certificate	15. Scale of costs
6. Accounting for cancellation price	16. Treasurer, immunity and delegation of duties
7. Effect of tax arrears cancellation certificate	17. Collection of tax arrears by upper tier municipality
8. Extension agreements	18. Regulations
9. Public sale	19-22. Complementary repeals and amendments
10. Application of proceeds	23. Transition
	24. Commencement
	25. Short title

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpretation

- (a) “cancellation price” means an amount equal to all the tax arrears owing at any time in respect of land together with all current real property taxes owing, interest and penalties thereon and all reasonable costs incurred by the municipality, after the treasurer becomes entitled to register a tax arrears certificate under section 3, in proceeding under this Act or in contemplation of proceeding under this Act and, without restricting the generality of the foregoing, may include,

- (i) legal fees and disbursements,

- (ii) the costs of preparing an extension agreement entered into under section 8,
- (iii) the costs of preparing a survey where such is required to register any document under this Act, and
- (iv) a reasonable allowance for costs that may be incurred subsequent to advertising under section 9;

1984, c. 11

- (b) “District Court” means, until the *Courts of Justice Act, 1984* comes into force, the county or district court for the jurisdiction in which the land that is subject to proceedings under this Act is located and thereafter means the District Court sitting in the county or district in which the land is located;
- (c) “improved land” means a parcel of land separately assessed that has a building thereon, and includes any land in actual use for agricultural purposes, although there is no building thereon;
- (d) “municipality” means the corporation of a city, town, village, township or improvement district;
- (e) “notice of vesting” means a notice of vesting prepared under subsection 9 (3) and includes the title conferred by the registration of the notice of vesting;
- (f) “prescribed” means prescribed by the regulations made under this Act;
- (g) “public sale” means a sale either by public auction or public tender conducted in accordance with this Act and the prescribed rules;
- (h) “real property taxes” means the amount of taxes levied on real property under the *Municipal Act*, the *Education Act* and the *Ontario Unconditional Grants Act*, and any amounts owed under the *Local Improvement Act*, the *Drainage Act*, the *Tile Drainage Act* and the *Shoreline Property Assistance Act* with respect to the real property and includes any amounts deemed to be taxes on real property by or under any other general or special Act;

- (i) “register” means register in the proper land registry office and “registered” and “registration” have a corresponding meaning;
- (j) “tax arrears” means any real property taxes placed on or added to a collector’s roll that remain unpaid on the 1st day of January in the year following that in which they were placed on or added to the roll;
- (k) “tax arrears certificate” means a tax arrears certificate prepared under section 3;
- (l) “tax deed” means a tax deed prepared under subsection 9 (3) and includes the title conferred by the registration of the tax deed;
- (m) “treasurer” means the treasurer of the municipality to which the tax arrears are owed;
- (n) “vacant land” means a parcel of land separately assessed that has no building thereon, but does not include any improved land.

(2) Where, under the *Education Act*, an officer or collector has the powers and duties of a treasurer and the board has the powers and duties of the council of a municipality, this Act and the regulations made under this Act apply to tax arrears and to every sale of land for tax arrears owed to the board.

Application
to tax sales
under
R.S.O. 1980,
c. 129

(3) For the purposes of this Act,

Register of
title, abstract
index

- (a) “register of title” and “abstract index” include an instrument received for registration before the closing of the land registry office on the day the tax arrears certificate was registered notwithstanding that the instrument has not been abstracted or entered in the register or index at that time;
- (b) “index of executions” and “index of writs received for execution” include a warrant or other process or a certificate of lien that is filed with the sheriff and recorded in the index of executions under the *Land Titles Act* or in the index of writs received for execution by the sheriff, as the case may be.

R.S.O. 1980,
c. 230

2. The Minister of Municipal Affairs and Housing is responsible for the administration of this Act.

Adminis-
tration

3.—(1) Where any part of tax arrears is owing with respect to,

Registration
of tax arrears
certificate

- (a) any improved land in a municipality on the 1st day of January in the third year following that in which the real property taxes become owing; or
- (b) any vacant land in a municipality on the 1st day of January in the second year following that in which the real property taxes become owing,

the treasurer, unless otherwise directed by the municipal council, may prepare and register a tax arrears certificate in the prescribed form against the title to the land with respect to which the tax arrears are owing.

Form

(2) A tax arrears certificate shall indicate that the land described in the certificate will be sold by public sale if the cancellation price is not paid within one year following the date of the registration of the tax arrears certificate.

Escheated
land
1982, c. 4
R.S.O. 1980,
c. 95

(3) This section does not apply to land that is vested in the Crown because of an escheat or forfeiture under the *Business Corporations Act, 1982* or the *Corporations Act* or any predecessor of those Acts before the registration of a tax arrears certificate, but where land escheats or becomes forfeited under either of those Acts to the Crown after the registration of the tax arrears certificate, the tax arrears certificate continues to have effect and the land may be sold under this Act for tax arrears.

What lands
certificate
may embrace

(4) A tax arrears certificate in respect of improved land shall not embrace more than one such property or any vacant land that is a separate parcel, and a tax arrears certificate in respect of vacant land shall not embrace lots according to more than one registered plan or any improved land.

Notice of
registration

4.—(1) Within sixty days of the registration of a tax arrears certificate, the treasurer shall send or cause to be sent a notice in the prescribed form of the registration of the certificate to the following persons:

1. The assessed owner of the land.
2. In the case of improved land, the assessed tenants in occupation of the land.
3. Where the land is registered under the *Land Titles Act*, every person appearing by the register of title and by the index of executions to have an interest in the land as of the time of closing of the land registry office on the day the tax arrears certificate was reg-

R.S.O. 1980,
c. 230

istered other than a person who has an interest referred to in clause 9 (5) (a) or (b).

4. Where the *Registry Act* applies to the land, every person appearing by the abstract index and by the index of writs received for execution by the sheriff of the county or district in which the land is situate to have an interest in the land as of the time of closing of the land registry office on the day the tax arrears certificate was registered other than a person who has an interest referred to in clause 9 (5) (a) or (b). R.S.O. 1980,
c. 445

(2) Where a notice is sent under this section to a person appearing by the records of the land registry office to be the owner of the land or to a person who is an assessed tenant in occupation of the land, a notice shall also be sent to the spouse of such person and, where this subsection is complied with, section 43 of the *Family Law Reform Act* shall be deemed to have been complied with. Spouse of
owner

R.S.O. 1980,
c. 152

(3) Where a notice has been sent under subsection (1) to a corporation, the treasurer shall, within the time limit in subsection (1), send a copy of the notice to the Public Trustee. Corporations

(4) The treasurer, forthwith after complying with subsections (1) to (3), shall make and register a statutory declaration in the prescribed form stating the names and addresses of the persons to whom notice was sent. Statutory
declaration

(5) A person is not entitled to notice under this section if, Limitation

- (a) after a reasonable search of the records mentioned in subsection 11 (1), the treasurer is unable to find the person's address and the treasurer is not otherwise aware of the address; or
- (b) the person has expressly waived the right to notice, either before or after the notice should have been sent.

5.—(1) Before the expiry of the one-year period mentioned in subsection 9 (1), any person may have the tax arrears certificate cancelled by paying to the municipality the cancellation price as of the date the payment is tendered and after the expiry of the one-year period the land shall be sold or vested in the municipality in accordance with section 9. Cancellation
of tax arrears
certificate

Cancellation
certificate

(2) Where payment has been made under subsection (1), the treasurer shall forthwith register a tax arrears cancellation certificate in the prescribed form.

Lien

(3) If the cancellation price is paid by a person entitled to receive notice under subsection 4 (1) or an assignee of any such person, other than the owner of the land or the spouse of the owner, the person has a lien on the land concerned for the amount paid.

Priority
of lien

(4) A lien under subsection (3) has priority over the interest in the land of any person to whom notice was sent under section 4.

Contents of
certificate

(5) Where there is a lien under subsection (3), the tax arrears cancellation certificate shall state that the person named therein has a lien on the land.

Accounting
for
cancellation
price

6.—(1) Except where the cancellation price has been determined in accordance with a by-law passed under section 15, a person who pays the cancellation price before the expiry of the one-year period mentioned in subsection 9 (1), by a written request made within thirty days after making the payment, may require the treasurer to provide an itemized breakdown of the calculation of the cancellation price that has been paid.

Idem

(2) Where the treasurer fails to provide the itemized breakdown of the calculation within thirty days of the request or where the person who made the request is of the opinion that the cancellation price so calculated has not been calculated properly or that the costs included in the cancellation price by the municipality as costs incurred in proceeding under this Act are unreasonable, the person who made the request may apply to the District Court for an accounting of the cancellation price.

Idem

(3) Upon an application for an accounting under subsection (2), the court shall determine the matter and, if the court determines that the cancellation price was not calculated properly or the costs included in the cancellation price are unreasonable, it may make an order setting a cancellation price which is proper and reasonable but no such order shall relieve a taxpayer of any liability to pay any validly imposed real property taxes.

Effect of
tax arrears
cancellation
certificate

7. Unless otherwise shown in the tax arrears cancellation certificate, the certificate, when registered, is conclusive proof of the payment of the cancellation price as of the date set out in it.

8.—(1) A municipality, by a by-law passed after the registration of the tax arrears certificate and before the expiry of the one-year period mentioned in subsection 9 (1), may authorize an extension agreement with the owner of the land extending the period of time in which the cancellation price is to be paid and the agreement may be subject to such terms and conditions relating to payment as are set out in it, but it shall not,

Extension
agreements

- (a) reduce the amount of the cancellation price; or
- (b) prohibit any person from paying the cancellation price at any time.

(2) Every extension agreement entered into under subsection (1) shall state,

Mandatory
contents

- (a) when and under what conditions it shall cease to be considered a subsisting agreement;
- (b) that any person may pay the cancellation price at any time; and
- (c) that it terminates upon payment of the cancellation price by any person.

(3) The period during which there is a subsisting extension agreement shall not be counted by the treasurer in calculating the periods mentioned in subsection 9 (1).

Calculation
of time

(4) The treasurer, on the request of any person, shall permit the person to inspect a copy of an extension agreement entered into under this section and shall provide copies thereof at the same rate as is charged under section 78 of the *Municipal Act*.

Inspection of
extension
agreement

R.S.O. 1980,
c. 302

(5) When the terms of an extension agreement have been fulfilled, the treasurer shall forthwith register a tax arrears cancellation certificate in the prescribed form.

Cancellation
certificate

9.—(1) If the cancellation price remains unpaid at the expiry of the period of 280 days from the day of the registration of the tax arrears certificate, the treasurer, within thirty days of the expiry of the 280 day period, shall send or cause to be sent to the persons entitled to receive notice under section 4 a final notice in the prescribed form that the land will be advertised for public sale unless the cancellation price is paid before the end of the one-year period following the date of the registration of the tax arrears certificate.

Public sale

Advertisement (2) If, at the end of the one-year period following the date of the registration of the tax arrears certificate,

- (a) the cancellation price remains unpaid; and
- (b) there is no subsisting extension agreement,

the land shall be offered for public sale by public auction or public tender, as the treasurer shall decide, and the treasurer shall forthwith,

- (c) make a statutory declaration in the prescribed form stating the names and addresses of the persons to whom notice was sent under subsection (1);
- (d) advertise the land for sale once in *The Ontario Gazette* and once a week for four weeks in a newspaper that, in the opinion of the treasurer, has such circulation within the municipality as to provide reasonable notice of the sale or, where there is no such newspaper, the treasurer shall post notice in the municipal office and one other prominent place in the municipality and the advertisement shall be in the prescribed form.

Conduct
of sale

(3) The treasurer, in accordance with the prescribed rules, shall conduct a public sale and determine whether there is a successful purchaser and,

- (a) where there is a successful purchaser, the treasurer shall prepare and register a tax deed in the prescribed form in the name of the successful purchaser or in such name as the successful purchaser may direct; or
- (b) where there is no successful purchaser, the treasurer shall prepare and register, in the name of the municipality, a notice of vesting in the prescribed form.

Statutory
declaration

(4) The treasurer shall make and register, at the time of registering the tax deed or notice of vesting, a statutory declaration in the prescribed form stating that,

- (a) the tax arrears certificate was registered with respect to the land at least one year before the land was advertised for sale;

- (b) notices were sent and the statutory declarations were registered in substantial compliance with this Act and the regulations made under this Act;
- (c) the cancellation price was not paid within one year following the date of the registration of the tax arrears certificate; and
- (d) the land was advertised for sale, in substantial compliance with this Act and the regulations made under this Act.

(5) A tax deed or notice of vesting, when registered, vests in the person named therein or in the municipality, as the case may be, an estate in fee simple in the land, together with all rights, privileges and appurtenances and free from all estates and interests, subject only to,

Effect of conveyance

- (a) easements and restrictive covenants that run with the land;
- (b) any estates and interests of the Crown in right of Canada or in right of Ontario; and
- (c) any interest or title acquired by adverse possession by abutting landowners before the registration of the tax deed or notice of vesting.

(6) A tax deed or notice of vesting, when registered, vests in the person named therein or the municipality, as the case may be, any interest in or title to adjoining land acquired by adverse possession before the registration of the tax deed or notice of vesting if the person originally acquiring the interest or title by adverse possession did so as a consequence of possession of the land described in the tax deed or notice of vesting.

Idem

(7) A tax deed does not,

No warranty

- (a) impose an obligation on the municipality to provide vacant possession;
- (b) invalidate or in any way affect the collection of a rate that has been assessed, imposed or charged on the land under any Act by the municipality before the registration of the tax deed and that accrues or becomes due after the registration of the tax deed.

(8) The council of the municipality to which the tax arrears are owed may by resolution authorize the municipality to bid

Municipal bid or tender

at or submit a tender in a public sale conducted under this section if the municipality requires the land for a municipal purpose.

Inspection of
statutory
declaration

R.S.O. 1980,
c. 302

(9) The treasurer, on the request of any person, shall permit the person to inspect a copy of the statutory declaration made under clause (2) (c) and shall provide copies thereof at the same rate as is charged under section 78 of the *Municipal Act*.

Power of
treasurer

(10) Notwithstanding anything in the prescribed rules, except the rules relating to the determination of the successful purchaser, the treasurer, in conducting a sale under this Act, may do all things as are, in his or her opinion, necessary to ensure a fair and orderly sale.

Value of
land

(11) The treasurer is not bound to inquire into or form any opinion of the value of the land before conducting a sale under this Act and the treasurer is not under any duty to obtain the highest or best price for the land.

Application
of proceeds

10.—(1) The proceeds of a sale under section 9 shall be,

- (a) firstly, applied to pay the cancellation price;
- (b) secondly, paid to all persons, other than the owner, having an interest in the land according to their priority at law; and
- (c) thirdly, paid to the person who immediately before the registration of the tax deed was the owner of the land.

Payment
into court

(2) The treasurer shall pay the proceeds of sale, minus the cancellation price, into the District Court together with a statement in the prescribed form outlining the facts under which the payment into court is made.

Payment out
of court

(3) Any person claiming entitlement under clause (1) (b) or (c) may apply to the District Court within one year of the payment into court under subsection (2) for payment out of court of the amount to which the person is entitled.

Idem

(4) On an application under subsection (3), the court shall determine all of the entitlements to receive payments out of the proceeds of sale.

Forfeiture

(5) Where no person makes an application under subsection (3) within the one-year period referred to in that subsection, the amount paid into court under subsection (2) shall be

deemed to be forfeited to the municipality and the municipality may apply to the District Court for payment out of court of the amount that was paid in.

(6) Money received by a municipality under subsection (5) shall be paid into the general funds of the municipality. Payment into
general funds

11.—(1) Any notice required to be sent to any person under this Act may be given by personal delivery or, in the alternative, may be sent by certified or registered mail, Methods of
giving
notice

(a) in the case of the assessed owner, to the address of the person as shown on the last returned assessment roll of the municipality;

(b) in the case of any person whose interest is registered against the title of the land, to the address of the person furnished under section 166 of the *Land Titles Act* or section 37 of the *Registry Act* or where no such address has been furnished, addressed to the solicitor whose name appears on the registered instrument by which that person appears to have an interest;

R.S.O. 1980,
cc. 230, 445

(c) in the case of a person appearing to have an interest in the land by the index of executions with respect to land registered under the *Land Titles Act* or by the index of writs received by the sheriff in the case of land registered under the *Registry Act*, to the address of the person or person's solicitor as shown in the index of executions or in the records of the sheriff of the county or district in which the land is situate;

R.S.O. 1980,
cc. 230, 445

(d) in the case of a spouse of the person appearing by the records of the land registry office to be the owner of the land, addressed to "the spouse of (*name of person*)" at the usual or last known address of such spouse or, where that address is not known to the treasurer, at the address of the land; and

(e) in the case of the Public Trustee, addressed to him or her at his or her office in Toronto.



(2) Any notice required to be sent under this Act to an assessed tenant in occupation of the land and to his or her spouse may be given to them jointly by personal delivery or by ordinary mail addressed to "the occupant and spouse" at the address of the land. Idem



Idem

(3) Where there are six or more assessed tenants in occupation of the land, the notice referred to in subsection (2) may be given by placing a placard containing the terms of the notice in a conspicuous place on the land and the placing of the placard shall be deemed to be sufficient service of the notice.

Statutory
declaration,
effect

(4) A statutory declaration,

- (a) registered under subsection 4 (4) or made under clause 9 (2) (c) is *prima facie* proof that the notices required to be sent were sent to the persons named in the statutory declaration and received by them;
- (b) registered under subsection 9 (4) is conclusive proof of the matters referred to in clauses 9 (4) (a) to (d).

Receipt of
notice

(5) Nothing in this Act requires the treasurer to ensure that a notice that is properly sent under this Act is received by the person to whom it was sent.

Voidable
proceedings

12.—(1) No proceedings for the sale of land under this Act are void by reason of any neglect, omission or error but, subject to this section and to section 13, any such neglect, omission or error may render the proceedings voidable.

Idem

(2) Subject to subsection (4) and to section 13,

- (a) a failure on the part of the treasurer to substantially comply with section 4 or subsection 9 (1) of this Act; or
- (b) an error or omission in the registration or sale of the land, other than an error or omission mentioned in subsection (5),

renders the proceedings under this Act voidable.

Duty of
treasurer

(3) Where, before the registration of a tax deed or notice of vesting, the treasurer becomes aware of a failure, error or omission referred to in subsection (2), the treasurer shall forthwith register a tax arrears cancellation certificate in the prescribed form but this subsection does not apply so as to prevent the treasurer from registering a new tax arrears certificate and proceeding under this Act.

Actual
prejudice

(4) Proceedings for the sale of land under this Act are not voidable unless the person complaining of any neglect, error or omission establishes that he or she suffered actual prejudice as a result of the neglect, error or omission.

(5) No proceedings under this Act are rendered voidable by reason of,

No duty to
distrain,
effect of
miscalcu-
lation
of cancel-
lation
price

- (a) a failure on the part of the treasurer to distrain for any reason or take any other action for the collection of taxes;
- (b) an error in the cancellation price other than a substantial error;
- (c) any error in the notices sent or delivered under this Act if the error has not substantially misled the person complaining of the error;
- (d) any error in the publishing or posting of advertisements if the error has not substantially misled the person complaining of the error; or
- (e) any error in the description of the land in the tax arrears certificate if the error has not substantially misled the person complaining of the error.

(6) Where, in the opinion of the treasurer,

Treasurer
may halt
proceedings

- (a) it is not in the financial interests of the municipality to continue with proceedings under this Act; or
- (b) because of some neglect, error or omission, it is not practical or desirable to continue proceedings under this Act,

the treasurer may register a cancellation certificate in the prescribed form, but this subsection does not apply so as to prevent the treasurer from registering a new tax arrears certificate and proceeding under this Act.

13.—(1) Subject to proof of fraud, every tax deed and notice of vesting, when registered, is final, binding and conclusive and not subject to challenge for any reason including, without limiting the generality of the foregoing,

Effect of
registration
of tax deed
or notice of
vesting

- (a) the invalidity of any assessment upon which the tax arrears were based; and
- (b) the breach of any requirements, including notice requirements, imposed by this or any other Act or otherwise by law,

and no action may be brought for the recovery of the land after the registration of the tax deed or notice of vesting if the

statutory declaration required by subsection 9 (4) has been registered.

Idem

(2) Subsection (1) does not apply so as to prevent a person from bringing an action for damages against the municipality.

Mining
rights

R.S.O. 1980,
c. 268

14.—(1) Where land, the mining rights in which are liable for a tax imposed under the *Mining Act* or a predecessor of that Act, is sold for taxes or is vested in a municipality under this Act or under a predecessor of this Act, on or after the 1st day of April, 1954, such sale or vesting creates a severance of the surface rights from the mining rights, and only the surface rights in the land pass to the tax sale purchaser or vest in the municipality, as the case may be, and the sale or registration does not in any way affect the mining rights.

Idem

R.S.O. 1980,
c. 269

R.S.O. 1980,
c. 302

R.S.O. 1980,
c. 303

(2) Notwithstanding subsection (1) or anything else in this or any other Act but subject to any forfeiture to the Crown legally effected under the *Mining Tax Act* or a predecessor of that Act, where land the mining rights in which were liable for area tax under the *Mining Tax Act* or its predecessor, was sold for taxes under the *Municipal Act* or any predecessor thereof or was vested in a municipality upon registration of a tax arrears certificate under the *Municipal Affairs Act* or any predecessor of that Act before the 1st day of April, 1954, and there had been, before the sale or registration, no severance of the surface rights from the mining rights, and the sale or certificate purported to vest all rights in the land in the tax sale purchaser or in the municipality, as the case may be, such sale or certificate shall be deemed to have vested in the tax sale purchaser or in the municipality, without severance, both the surface and mining rights.

Scale of
costs

15. The council of a municipality, in lieu of charging the municipality's actual costs in determining any cancellation price, may by by-law fix a scale of costs to be charged as the reasonable costs of proceedings under this Act, which scale shall be designed to meet only the anticipated costs of the municipality.

Treasurer,
immunity
from
civil actions

16.—(1) No action or other proceeding for damages shall be brought against the treasurer or any officer or employee of the municipality acting under the treasurer's authority as a result of any act done in good faith in the performance or intended performance of any duty or in the intended exercise of any power under this Act or the regulations made under this Act or any neglect or default in the performance or exercise in good faith of such duty or power but any such action or proceeding may be brought against the municipality.

(2) The treasurer may delegate, in writing, to any officer or employee of the municipality any power or duty granted to or vested in the treasurer under this Act.

Delegation of duties

17.—(1) The council of any county may by by-law enter into an agreement with any local municipality within the county authorizing the county treasurer to perform the duties of a treasurer under this Act in respect of land within the local municipality and providing for,

Collection of tax arrears by county

- (a) the payment to the county of that portion of the cancellation price that reflects the reasonable costs incurred by the county;
- (b) the method of cancelling any such agreement; and
- (c) such other matters as are necessary to carry out the agreement.



(2) Where an agreement is in force under this section, the county treasurer has all of the powers of the treasurer of the local municipality in relation to the collection of tax arrears, including the power to sell land under this Act, and the county treasurer shall perform all of the duties of the treasurer of the local municipality in relation thereto and only the county may pass by-laws under sections 8 and 15.

County treasurer, etc.

(3) Where an agreement under this section is in force, the treasurer of the local municipality shall provide the county treasurer with such information and assistance as is needed by the county treasurer to exercise the powers and duties of a treasurer under this Act.

Treasurer of local municipality

(4) Subject to the terms of the agreement, the county or the local municipality may by by-law cancel at any time an agreement entered into under this section.

Cancellation of agreement

(5) Where a by-law is passed under subsection (4), the clerk of the municipality passing the by-law shall forthwith send a certified copy of the by-law by registered mail to the treasurer of the other municipality.

Notice of cancellation

(6) Where an agreement under this section is cancelled, the treasurer of the local municipality shall assume the duties of a treasurer under this Act in respect of all land within the municipality except the land referred to in subsection (7).

Effect of repeals

(7) Where an agreement under this section is cancelled, any proceedings under this Act started by the treasurer of the county in respect of land within the local municipality affected

Idem

by the repeal or cancellation shall be continued and concluded by the county treasurer.

Other upper
tier
municipalities

► (8) This section applies with necessary modifications to every metropolitan, regional and district municipality as if a reference to a county were a reference to such municipality.

Regulations

18.—(1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing forms and providing for their use;
- (b) prescribing rules for the sale of lands under this Act by public sale and, without restricting the generality of the foregoing, the rules,
 - (i) shall set out the method of determining a successful purchaser, and
 - (ii) may require the submission of deposits, in such amount and in such form as may be set out in the rules, and for the forfeiture and disposition thereof.

Idem

(2) A regulation passed under subclause (1) (b) (i) shall provide that a person shall not be declared to be the successful purchaser unless the person's tender or bid is equal to or greater than the cancellation price and the person pays the sale price and land transfer tax payable with respect to the sale within such period of time as may be set out in the rules.

19. Clause 6 (b), sections 20, 40 to 47, 49 and 50, subsections 64 (2) and (3) and Forms 1 to 4 of the *Municipal Affairs Act*, being chapter 303 of the Revised Statutes of Ontario, 1980, are repealed.

20.—(1) Sections 397, 400, 402 to 405, 413 to 418, 420 to 464, 466 to 472 and Form 9 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Section 399 of the said Act is amended by striking out "county or other" in the first line.

(3) Section 401 of the said Act is repealed and the following substituted therefor:

Payments
on tax
arrears

401. The treasurer of every municipality shall collect the arrears of taxes outstanding after the return of the collector's roll and may receive part payment of taxes returned to the treasurer as in arrears upon any land for any year and shall

credit such payment first on account of the interest and percentage charges, if any, added to such taxes and shall credit the remainder of such payment against that part of the taxes that has been in arrears for the greatest period of time but no such payment shall be received after a tax arrears certificate has been registered under the *Municipal Tax Sales Act, 1984*.

1984, c...

(4) Section 409 of the said Act is repealed and the following substituted therefor:

409. The treasurer of a local municipality shall keep a duplicate blank receipt book, and on receipt of any sum of money for taxes on land shall deliver to the person making the payment one of such receipts, retaining the second of the set in the book, and the auditors shall examine and audit such books and accounts at least once in every year.

Treasurer
to keep
duplicate
receipt book

(5) Section 419 of the said Act is repealed and the following substituted therefor:

419. If there are to the knowledge of the treasurer goods and chattels liable to distress upon any land in arrear for taxes, he may levy the arrears of taxes and the costs by distress, and has the same authority to collect by distress as a collector has under this Act, and section 387 applies thereto.

Where
distress on
premises,
treasurer
may distress

(6) Sections 491, 492, 493 and 494 of the said Act are repealed and the following substituted therefor:

491. Every municipality is responsible to Her Majesty, and to all other persons interested, that all money coming into the hands of the treasurer of the municipality by virtue of the treasurer's office shall be duly paid over and accounted for by the treasurer according to law.

Municipality
responsible
for such
money

492. The treasurer and the treasurer's sureties are responsible and accountable for such money to the municipality and any bond or security given by them for the duly accounting for and paying over money belonging to the municipality applies to all money mentioned in section 484 and may be enforced against the treasurer or the treasurer's sureties in case of default.

Treasurer,
etc.,
responsible
to
municipality

493. The bond of the treasurer and the treasurer's sureties applies to school money and to all public money of Ontario and, in case of default, Her Majesty may enforce the responsibility of the municipality by stopping payment of a like amount out of any public money that would otherwise be payable to the municipality or to the treasurer thereof, or by action against the corporation.

Bonds to
apply to
school
money

City, etc.,
responsible
for default
of treasurer,
etc.

494. Any person aggrieved by the default of the treasurer may recover from the municipality the amount due or payable to such person as money had and received to the person's use.

(7) Form 8 of the said Act is amended by striking out the following paragraph:

"I hereby certify that the above statement shows all arrears of taxes returned to this office against the above lands, and that no part of the lands has been sold for taxes and no certificate of tax arrears has been registered against the lands within the last eighteen months, and that the return under section 397 of the *Municipal Act* has been made for the year 19..."

and inserting in lieu thereof:

1984, c... "I hereby certify that the above statement shows all arrears of taxes against the above lands, and proceedings have (not) been commenced under the *Municipal Tax Sales Act, 1984*."

21.—(1) Subsection 53 (1) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1982, chapter 32, section 14, is further amended by inserting after "duties" in the eleventh line "including the powers and duties with respect to the sale of land for tax arrears" and by striking out "67 (5) to (12)" in the twelfth and thirteenth lines and inserting in lieu thereof "67 (5), (6) and (12)".

(2) Subsection 67 (1) of the said Act is amended by inserting after "duties" in the seventh line "including the powers and duties with respect to the sale of land for tax arrears".

(3) Subsections 67 (6) to (11) of the said Act are repealed and the following substituted therefor:

Tax sales
officer

1984, c...

(6) The board of a district school area shall name one of its officers as the officer of the board responsible for the sale of land for tax arrears and that officer has the same powers and duties as a treasurer under the *Municipal Tax Sales Act, 1984* and the board has the same powers and duties as a council under that Act.

(4) Subsection 69 (3) of the said Act is amended by inserting after "duties" in the sixth line "including the powers and duties with respect to the sale of land for tax arrears".

(5) Subsection 69 (6) of the said Act is amended by striking out "67 (5) to (12)" in the first line and inserting in lieu thereof "67 (5), (6) and (12)".

(6) Subsection 99 (2) of the said Act is repealed and the following substituted therefor:

(2) Every collector has the same powers in collecting the school rate, rate-bill or subscription and is under the same liabilities and obligations and shall proceed in the same manner as a township collector in collecting rates in a township and has the same powers and duties as a treasurer under the *Municipal Tax Sales Act, 1984* and the board by which the collector is employed has the same powers and duties as a council under that Act.

Powers and
duties of
collectors

1984, c...

(7) Subsection 112 (2) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 36, is further amended by inserting after "duties" in the tenth line "including the powers and duties with respect to the sale of land for tax arrears" and by striking out "67 (5) to (12)" in the twelfth line and inserting in lieu thereof "67 (5), (6) and (12)".

22. Subsection 17 (2) of the *Assessment Act*, being chapter 31 of the Revised Statutes of Ontario, 1980, is repealed.

23.—(1) Notwithstanding section 19 or subsection 20 (1), but subject to subsection (2), where before the day this section comes into force, a tax arrears certificate is registered under the *Municipal Affairs Act* or a certificate is given under section 433 of the *Municipal Act* in respect of any land, the tax arrears proceedings of the applicable Act shall continue to apply to such land.

Transition

R.S.O. 1980,
cc. 303, 302

(2) Notwithstanding subsection (1), where land to which subsection (1) applies has not been the subject of a tax deed under the *Municipal Act* and has not been sold or declared necessary for municipal purposes under the *Municipal Affairs Act* by the 1st day of January, 1987, the land vests in the municipality on the day that a notice of forfeiture is registered under subsection (3).

Vesting

(3) After the 1st day of January, 1987, the treasurer shall register a notice of forfeiture in the prescribed form with respect to each parcel of land to which subsection (2) applies and the notice, when registered, vests in the municipality an estate in fee simple in the land, together with all rights, privileges and appurtenances, free from all estates and interest subject only to,

Notice of
forfeiture

- (a) easements and restrictive covenants that run with the land;

- (b) any estates and interests of the Crown in right of Canada or in right of Ontario; and
- (c) any interest or title acquired by adverse possession by abutting landowners before the registration of the notice.

Idem

(4) A notice of forfeiture, when registered, vests in the municipality any interest in or title to adjoining land acquired by adverse possession before the registration of the notice if the person originally acquiring the interest or title by adverse possession did so as a consequence of possession of the land described in the notice.

Effect of registration of notice of forfeiture

(5) Subject to proof of fraud, every notice of forfeiture, when registered, is final, binding and conclusive and not subject to challenge for any reason including, without limiting the generality of the foregoing,

- (a) the invalidity of any assessment upon which the tax arrears were based; and
- (b) the breach of any requirements, including notice requirements, imposed by this or any other Act or otherwise by law,

and no action may be brought for the recovery of the land after the registration of the notice of forfeiture.

Idem

(6) Subsection (5) does not apply so as to prevent a person from bringing an action for damages against the municipality.

Compromise agreement

R.S.O. 1980, c. 303

(7) Subsections (2), (3) and (4) do not apply to land that, on the 1st day of January, 1987, is the subject of a subsisting compromise agreement entered into under the *Municipal Affairs Act*.

Application to certain school boards
R.S.O. 1980, c. 129

(8) This section applies with necessary modifications to proceedings taken under the *Education Act* or any predecessor of that Act by a board authorized under such Act to collect school rates or subscriptions.

Commencement

24.—(1) This Act, except sections 2 to 16 and 19 to 23, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 2 to 16 and 19 to 23 come into force on the 1st day of January, 1985.

Short title

25. The short title of this Act is the *Municipal Tax Sales Act, 1984*.

Bill 102

(Chapter 48
Statutes of Ontario, 1984)

An Act respecting the Sale of Lands for Arrears of Municipal Taxes

The Hon. C. Bennett
Minister of Municipal Affairs and Housing

<i>1st Reading</i>	June 12th, 1984
<i>2nd Reading</i>	November 26th, 1984
<i>3rd Reading</i>	November 27th, 1984
<i>Royal Assent</i>	November 27th, 1984

Bill 102

1984

**An Act respecting the
Sale of Lands for Arrears of Municipal Taxes**

CONTENTS

Section	Section
1. Interpretation and application	11. Methods of giving notice
2. Administration	12. Voidable proceedings
3. Registration of tax arrears certificate	13. Effect of registration of tax deed or notice of vesting
4. Notice of registration	14. Mining rights
5. Cancellation of tax arrears certificate	15. Scale of costs
6. Accounting for cancellation price	16. Treasurer, immunity and delegation of duties
7. Effect of tax arrears cancellation certificate	17. Collection of tax arrears by upper tier municipality
8. Extension agreements	18. Regulations
9. Public sale	19-22. Complementary repeals and amendments
10. Application of proceeds	23. Transition
	24. Commencement
	25. Short title

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpretation

- (a) “cancellation price” means an amount equal to all the tax arrears owing at any time in respect of land together with all current real property taxes owing, interest and penalties thereon and all reasonable costs incurred by the municipality, after the treasurer becomes entitled to register a tax arrears certificate under section 3, in proceeding under this Act or in contemplation of proceeding under this Act and, without restricting the generality of the foregoing, may include,

- (i) legal fees and disbursements,

- (ii) the costs of preparing an extension agreement entered into under section 8,
- (iii) the costs of preparing a survey where such is required to register any document under this Act, and
- (iv) a reasonable allowance for costs that may be incurred subsequent to advertising under section 9;

1984, c. 11

- (b) “District Court” means, until the *Courts of Justice Act, 1984* comes into force, the county or district court for the jurisdiction in which the land that is subject to proceedings under this Act is located and thereafter means the District Court sitting in the county or district in which the land is located;
- (c) “improved land” means a parcel of land separately assessed that has a building thereon, and includes any land in actual use for agricultural purposes, although there is no building thereon;
- (d) “municipality” means the corporation of a city, town, village, township or improvement district;
- (e) “notice of vesting” means a notice of vesting prepared under subsection 9 (3) and includes the title conferred by the registration of the notice of vesting;
- (f) “prescribed” means prescribed by the regulations made under this Act;
- (g) “public sale” means a sale either by public auction or public tender conducted in accordance with this Act and the prescribed rules;
- (h) “real property taxes” means the amount of taxes levied on real property under the *Municipal Act*, the *Education Act* and the *Ontario Unconditional Grants Act*, and any amounts owed under the *Local Improvement Act*, the *Drainage Act*, the *Tile Drainage Act* and the *Shoreline Property Assistance Act* with respect to the real property and includes any amounts deemed to be taxes on real property by or under any other general or special Act;

R.S.O. 1980,
cc. 302, 129,
359, 250,
126, 500,
471

- (i) “register” means register in the proper land registry office and “registered” and “registration” have a corresponding meaning;
- (j) “tax arrears” means any real property taxes placed on or added to a collector’s roll that remain unpaid on the 1st day of January in the year following that in which they were placed on or added to the roll;
- (k) “tax arrears certificate” means a tax arrears certificate prepared under section 3;
- (l) “tax deed” means a tax deed prepared under subsection 9 (3) and includes the title conferred by the registration of the tax deed;
- (m) “treasurer” means the treasurer of the municipality to which the tax arrears are owed;
- (n) “vacant land” means a parcel of land separately assessed that has no building thereon, but does not include any improved land.

(2) Where, under the *Education Act*, an officer or collector has the powers and duties of a treasurer and the board has the powers and duties of the council of a municipality, this Act and the regulations made under this Act apply to tax arrears and to every sale of land for tax arrears owed to the board.

Application
to tax sales
under
R.S.O. 1980,
c. 129

(3) For the purposes of this Act,

Register of
title, abstract
index

- (a) “register of title” and “abstract index” include an instrument received for registration before the closing of the land registry office on the day the tax arrears certificate was registered notwithstanding that the instrument has not been abstracted or entered in the register or index at that time;
- (b) “index of executions” and “index of writs received for execution” include a warrant or other process or a certificate of lien that is filed with the sheriff and recorded in the index of executions under the *Land Titles Act* or in the index of writs received for execution by the sheriff, as the case may be.

R.S.O. 1980,
c. 230

2. The Minister of Municipal Affairs and Housing is responsible for the administration of this Act.

Adminis-
tration

3.—(1) Where any part of tax arrears is owing with respect to,

Registration
of tax arrears
certificate

- (a) any improved land in a municipality on the 1st day of January in the third year following that in which the real property taxes become owing; or
- (b) any vacant land in a municipality on the 1st day of January in the second year following that in which the real property taxes become owing,

the treasurer, unless otherwise directed by the municipal council, may prepare and register a tax arrears certificate in the prescribed form against the title to the land with respect to which the tax arrears are owing.

Form

(2) A tax arrears certificate shall indicate that the land described in the certificate will be sold by public sale if the cancellation price is not paid within one year following the date of the registration of the tax arrears certificate.

Escheated
land
1982, c. 4
R.S.O. 1980,
c. 95

(3) This section does not apply to land that is vested in the Crown because of an escheat or forfeiture under the *Business Corporations Act, 1982* or the *Corporations Act* or any predecessor of those Acts before the registration of a tax arrears certificate, but where land escheats or becomes forfeited under either of those Acts to the Crown after the registration of the tax arrears certificate, the tax arrears certificate continues to have effect and the land may be sold under this Act for tax arrears.

What lands
certificate
may embrace

(4) A tax arrears certificate in respect of improved land shall not embrace more than one such property or any vacant land that is a separate parcel, and a tax arrears certificate in respect of vacant land shall not embrace lots according to more than one registered plan or any improved land.

Notice of
registration

4.—(1) Within sixty days of the registration of a tax arrears certificate, the treasurer shall send or cause to be sent a notice in the prescribed form of the registration of the certificate to the following persons:

1. The assessed owner of the land.
2. In the case of improved land, the assessed tenants in occupation of the land.
3. Where the land is registered under the *Land Titles Act*, every person appearing by the register of title and by the index of executions to have an interest in the land as of the time of closing of the land registry office on the day the tax arrears certificate was reg-

R.S.O. 1980,
c. 230

istered other than a person who has an interest referred to in clause 9 (5) (a) or (b).

4. Where the *Registry Act* applies to the land, every person appearing by the abstract index and by the index of writs received for execution by the sheriff of the county or district in which the land is situate to have an interest in the land as of the time of closing of the land registry office on the day the tax arrears certificate was registered other than a person who has an interest referred to in clause 9 (5) (a) or (b). R.S.O. 1980,
c. 445

(2) Where a notice is sent under this section to a person appearing by the records of the land registry office to be the owner of the land or to a person who is an assessed tenant in occupation of the land, a notice shall also be sent to the spouse of such person and, where this subsection is complied with, section 43 of the *Family Law Reform Act* shall be deemed to have been complied with. Spouse of
owner

R.S.O. 1980,
c. 152

(3) Where a notice has been sent under subsection (1) to a corporation, the treasurer shall, within the time limit in subsection (1), send a copy of the notice to the Public Trustee. Corporations

(4) The treasurer, forthwith after complying with subsections (1) to (3), shall make and register a statutory declaration in the prescribed form stating the names and addresses of the persons to whom notice was sent. Statutory
declaration

(5) A person is not entitled to notice under this section if, Limitation

- (a) after a reasonable search of the records mentioned in subsection 11 (1), the treasurer is unable to find the person's address and the treasurer is not otherwise aware of the address; or
- (b) the person has expressly waived the right to notice, either before or after the notice should have been sent.

5.—(1) Before the expiry of the one-year period mentioned in subsection 9 (1), any person may have the tax arrears certificate cancelled by paying to the municipality the cancellation price as of the date the payment is tendered and after the expiry of the one-year period the land shall be sold or vested in the municipality in accordance with section 9. Cancellation
of tax arrears
certificate

Cancellation
certificate

(2) Where payment has been made under subsection (1), the treasurer shall forthwith register a tax arrears cancellation certificate in the prescribed form.

Lien

(3) If the cancellation price is paid by a person entitled to receive notice under subsection 4 (1) or an assignee of any such person, other than the owner of the land or the spouse of the owner, the person has a lien on the land concerned for the amount paid.

Priority
of lien

(4) A lien under subsection (3) has priority over the interest in the land of any person to whom notice was sent under section 4.

Contents of
certificate

(5) Where there is a lien under subsection (3), the tax arrears cancellation certificate shall state that the person named therein has a lien on the land.

Accounting
for
cancellation
price

6.—(1) Except where the cancellation price has been determined in accordance with a by-law passed under section 15, a person who pays the cancellation price before the expiry of the one-year period mentioned in subsection 9 (1), by a written request made within thirty days after making the payment, may require the treasurer to provide an itemized breakdown of the calculation of the cancellation price that has been paid.

Idem

(2) Where the treasurer fails to provide the itemized breakdown of the calculation within thirty days of the request or where the person who made the request is of the opinion that the cancellation price so calculated has not been calculated properly or that the costs included in the cancellation price by the municipality as costs incurred in proceeding under this Act are unreasonable, the person who made the request may apply to the District Court for an accounting of the cancellation price.

Idem

(3) Upon an application for an accounting under subsection (2), the court shall determine the matter and, if the court determines that the cancellation price was not calculated properly or the costs included in the cancellation price are unreasonable, it may make an order setting a cancellation price which is proper and reasonable but no such order shall relieve a taxpayer of any liability to pay any validly imposed real property taxes.

Effect of
tax arrears
cancellation
certificate

7. Unless otherwise shown in the tax arrears cancellation certificate, the certificate, when registered, is conclusive proof of the payment of the cancellation price as of the date set out in it.

8.—(1) A municipality, by a by-law passed after the registration of the tax arrears certificate and before the expiry of the one-year period mentioned in subsection 9 (1), may authorize an extension agreement with the owner of the land extending the period of time in which the cancellation price is to be paid and the agreement may be subject to such terms and conditions relating to payment as are set out in it, but it shall not,

Extension
agreements

- (a) reduce the amount of the cancellation price; or
- (b) prohibit any person from paying the cancellation price at any time.

(2) Every extension agreement entered into under subsection (1) shall state,

Mandatory
contents

- (a) when and under what conditions it shall cease to be considered a subsisting agreement;
- (b) that any person may pay the cancellation price at any time; and
- (c) that it terminates upon payment of the cancellation price by any person.

(3) The period during which there is a subsisting extension agreement shall not be counted by the treasurer in calculating the periods mentioned in subsection 9 (1).

Calculation
of time

(4) The treasurer, on the request of any person, shall permit the person to inspect a copy of an extension agreement entered into under this section and shall provide copies thereof at the same rate as is charged under section 78 of the *Municipal Act*.

Inspection of
extension
agreement

R.S.O. 1980,
c. 302

(5) When the terms of an extension agreement have been fulfilled, the treasurer shall forthwith register a tax arrears cancellation certificate in the prescribed form.

Cancellation
certificate

9.—(1) If the cancellation price remains unpaid at the expiry of the period of 280 days from the day of the registration of the tax arrears certificate, the treasurer, within thirty days of the expiry of the 280 day period, shall send or cause to be sent to the persons entitled to receive notice under section 4 a final notice in the prescribed form that the land will be advertised for public sale unless the cancellation price is paid before the end of the one-year period following the date of the registration of the tax arrears certificate.

Public sale

Advertisement

(2) If, at the end of the one-year period following the date of the registration of the tax arrears certificate,

- (a) the cancellation price remains unpaid; and
- (b) there is no subsisting extension agreement,

the land shall be offered for public sale by public auction or public tender, as the treasurer shall decide, and the treasurer shall forthwith,

- (c) make a statutory declaration in the prescribed form stating the names and addresses of the persons to whom notice was sent under subsection (1);
- (d) advertise the land for sale once in *The Ontario Gazette* and once a week for four weeks in a newspaper that, in the opinion of the treasurer, has such circulation within the municipality as to provide reasonable notice of the sale or, where there is no such newspaper, the treasurer shall post notice in the municipal office and one other prominent place in the municipality and the advertisement shall be in the prescribed form.

Conduct
of sale

(3) The treasurer, in accordance with the prescribed rules, shall conduct a public sale and determine whether there is a successful purchaser and,

- (a) where there is a successful purchaser, the treasurer shall prepare and register a tax deed in the prescribed form in the name of the successful purchaser or in such name as the successful purchaser may direct; or
- (b) where there is no successful purchaser, the treasurer shall prepare and register, in the name of the municipality, a notice of vesting in the prescribed form.

Statutory
declaration

(4) The treasurer shall make and register, at the time of registering the tax deed or notice of vesting, a statutory declaration in the prescribed form stating that,

- (a) the tax arrears certificate was registered with respect to the land at least one year before the land was advertised for sale;

- (b) notices were sent and the statutory declarations were registered in substantial compliance with this Act and the regulations made under this Act;
- (c) the cancellation price was not paid within one year following the date of the registration of the tax arrears certificate; and
- (d) the land was advertised for sale, in substantial compliance with this Act and the regulations made under this Act.

(5) A tax deed or notice of vesting, when registered, vests in the person named therein or in the municipality, as the case may be, an estate in fee simple in the land, together with all rights, privileges and appurtenances and free from all estates and interests, subject only to,

Effect of conveyance

- (a) easements and restrictive covenants that run with the land;
- (b) any estates and interests of the Crown in right of Canada or in right of Ontario; and
- (c) any interest or title acquired by adverse possession by abutting landowners before the registration of the tax deed or notice of vesting.

(6) A tax deed or notice of vesting, when registered, vests in the person named therein or the municipality, as the case may be, any interest in or title to adjoining land acquired by adverse possession before the registration of the tax deed or notice of vesting if the person originally acquiring the interest or title by adverse possession did so as a consequence of possession of the land described in the tax deed or notice of vesting.

Idem

(7) A tax deed does not,

No warranty

- (a) impose an obligation on the municipality to provide vacant possession;
- (b) invalidate or in any way affect the collection of a rate that has been assessed, imposed or charged on the land under any Act by the municipality before the registration of the tax deed and that accrues or becomes due after the registration of the tax deed.

(8) The council of the municipality to which the tax arrears are owed may by resolution authorize the municipality to bid

Municipal bid or tender

at or submit a tender in a public sale conducted under this section if the municipality requires the land for a municipal purpose.

Inspection of
statutory
declaration

(9) The treasurer, on the request of any person, shall permit the person to inspect a copy of the statutory declaration made under clause (2) (c) and shall provide copies thereof at the same rate as is charged under section 78 of the *Municipal Act*.

Power of
treasurer

(10) Notwithstanding anything in the prescribed rules, except the rules relating to the determination of the successful purchaser, the treasurer, in conducting a sale under this Act, may do all things as are, in his or her opinion, necessary to ensure a fair and orderly sale.

Value of
land

(11) The treasurer is not bound to inquire into or form any opinion of the value of the land before conducting a sale under this Act and the treasurer is not under any duty to obtain the highest or best price for the land.

Application
of proceeds

10.—(1) The proceeds of a sale under section 9 shall be,

- (a) firstly, applied to pay the cancellation price;
- (b) secondly, paid to all persons, other than the owner, having an interest in the land according to their priority at law; and
- (c) thirdly, paid to the person who immediately before the registration of the tax deed was the owner of the land.

Payment
into court

(2) The treasurer shall pay the proceeds of sale, minus the cancellation price, into the District Court together with a statement in the prescribed form outlining the facts under which the payment into court is made.

Payment out
of court

(3) Any person claiming entitlement under clause (1) (b) or (c) may apply to the District Court within one year of the payment into court under subsection (2) for payment out of court of the amount to which the person is entitled.

Idem

(4) On an application under subsection (3), the court shall determine all of the entitlements to receive payments out of the proceeds of sale.

Forfeiture

(5) Where no person makes an application under subsection (3) within the one-year period referred to in that subsection, the amount paid into court under subsection (2) shall be

deemed to be forfeited to the municipality and the municipality may apply to the District Court for payment out of court of the amount that was paid in.

(6) Money received by a municipality under subsection (5) shall be paid into the general funds of the municipality. Payment into
general funds

11.—(1) Any notice required to be sent to any person under this Act may be given by personal delivery or, in the alternative, may be sent by certified or registered mail, Methods of
giving
notice

(a) in the case of the assessed owner, to the address of the person as shown on the last returned assessment roll of the municipality;

(b) in the case of any person whose interest is registered against the title of the land, to the address of the person furnished under section 166 of the *Land Titles Act* or section 37 of the *Registry Act* or where no such address has been furnished, addressed to the solicitor whose name appears on the registered instrument by which that person appears to have an interest; R.S.O. 1980,
cc. 230, 445

(c) in the case of a person appearing to have an interest in the land by the index of executions with respect to land registered under the *Land Titles Act* or by the index of writs received by the sheriff in the case of land registered under the *Registry Act*, to the address of the person or person's solicitor as shown in the index of executions or in the records of the sheriff of the county or district in which the land is situate; R.S.O. 1980,
cc. 230, 445

(d) in the case of a spouse of the person appearing by the records of the land registry office to be the owner of the land, addressed to "the spouse of (*name of person*)" at the usual or last known address of such spouse or, where that address is not known to the treasurer, at the address of the land; and

(e) in the case of the Public Trustee, addressed to him or her at his or her office in Toronto.

(2) Any notice required to be sent under this Act to an assessed tenant in occupation of the land and to his or her spouse may be given to them jointly by personal delivery or by ordinary mail addressed to "the occupant and spouse" at the address of the land. Idem

Idem

(3) Where there are six or more assessed tenants in occupation of the land, the notice referred to in subsection (2) may be given by placing a placard containing the terms of the notice in a conspicuous place on the land and the placing of the placard shall be deemed to be sufficient service of the notice.

Statutory
declaration,
effect

(4) A statutory declaration,

- (a) registered under subsection 4 (4) or made under clause 9 (2) (c) is *prima facie* proof that the notices required to be sent were sent to the persons named in the statutory declaration and received by them;
- (b) registered under subsection 9 (4) is conclusive proof of the matters referred to in clauses 9 (4) (a) to (d).

Receipt of
notice

(5) Nothing in this Act requires the treasurer to ensure that a notice that is properly sent under this Act is received by the person to whom it was sent.

Voidable
proceedings

12.—(1) No proceedings for the sale of land under this Act are void by reason of any neglect, omission or error but, subject to this section and to section 13, any such neglect, omission or error may render the proceedings voidable.

Idem

(2) Subject to subsection (4) and to section 13,

- (a) a failure on the part of the treasurer to substantially comply with section 4 or subsection 9 (1) of this Act; or
- (b) an error or omission in the registration or sale of the land, other than an error or omission mentioned in subsection (5),

renders the proceedings under this Act voidable.

Duty of
treasurer

(3) Where, before the registration of a tax deed or notice of vesting, the treasurer becomes aware of a failure, error or omission referred to in subsection (2), the treasurer shall forthwith register a tax arrears cancellation certificate in the prescribed form but this subsection does not apply so as to prevent the treasurer from registering a new tax arrears certificate and proceeding under this Act.

Actual
prejudice

(4) Proceedings for the sale of land under this Act are not voidable unless the person complaining of any neglect, error or omission establishes that he or she suffered actual prejudice as a result of the neglect, error or omission.

(5) No proceedings under this Act are rendered voidable by reason of,

No duty to
distrain,
effect of
miscalcu-
lation
of cancel-
lation
price

- (a) a failure on the part of the treasurer to distrain for any reason or take any other action for the collection of taxes;
- (b) an error in the cancellation price other than a substantial error;
- (c) any error in the notices sent or delivered under this Act if the error has not substantially misled the person complaining of the error;
- (d) any error in the publishing or posting of advertisements if the error has not substantially misled the person complaining of the error; or
- (e) any error in the description of the land in the tax arrears certificate if the error has not substantially misled the person complaining of the error.

(6) Where, in the opinion of the treasurer,

Treasurer
may halt
proceedings

- (a) it is not in the financial interests of the municipality to continue with proceedings under this Act; or
- (b) because of some neglect, error or omission, it is not practical or desirable to continue proceedings under this Act,

the treasurer may register a cancellation certificate in the prescribed form, but this subsection does not apply so as to prevent the treasurer from registering a new tax arrears certificate and proceeding under this Act.

13.—(1) Subject to proof of fraud, every tax deed and notice of vesting, when registered, is final, binding and conclusive and not subject to challenge for any reason including, without limiting the generality of the foregoing,

Effect of
registration
of tax deed
or notice of
vesting

- (a) the invalidity of any assessment upon which the tax arrears were based; and
- (b) the breach of any requirements, including notice requirements, imposed by this or any other Act or otherwise by law,

and no action may be brought for the recovery of the land after the registration of the tax deed or notice of vesting if the

statutory declaration required by subsection 9 (4) has been registered.

Idem

(2) Subsection (1) does not apply so as to prevent a person from bringing an action for damages against the municipality.

Mining

rights

R.S.O. 1980,
c. 268

14.—(1) Where land, the mining rights in which are liable for a tax imposed under the *Mining Act* or a predecessor of that Act, is sold for taxes or is vested in a municipality under this Act or under a predecessor of this Act, on or after the 1st day of April, 1954, such sale or vesting creates a severance of the surface rights from the mining rights, and only the surface rights in the land pass to the tax sale purchaser or vest in the municipality, as the case may be, and the sale or registration does not in any way affect the mining rights.

Idem

R.S.O. 1980,
c. 269

R.S.O. 1980,
c. 302

R.S.O. 1980,
c. 303

(2) Notwithstanding subsection (1) or anything else in this or any other Act but subject to any forfeiture to the Crown legally effected under the *Mining Tax Act* or a predecessor of that Act, where land the mining rights in which were liable for area tax under the *Mining Tax Act* or its predecessor, was sold for taxes under the *Municipal Act* or any predecessor thereof or was vested in a municipality upon registration of a tax arrears certificate under the *Municipal Affairs Act* or any predecessor of that Act before the 1st day of April, 1954, and there had been, before the sale or registration, no severance of the surface rights from the mining rights, and the sale or certificate purported to vest all rights in the land in the tax sale purchaser or in the municipality, as the case may be, such sale or certificate shall be deemed to have vested in the tax sale purchaser or in the municipality, without severance, both the surface and mining rights.

Scale of
costs

15. The council of a municipality, in lieu of charging the municipality's actual costs in determining any cancellation price, may by by-law fix a scale of costs to be charged as the reasonable costs of proceedings under this Act, which scale shall be designed to meet only the anticipated costs of the municipality.

Treasurer,
immunity
from
civil actions

16.—(1) No action or other proceeding for damages shall be brought against the treasurer or any officer or employee of the municipality acting under the treasurer's authority as a result of any act done in good faith in the performance or intended performance of any duty or in the intended exercise of any power under this Act or the regulations made under this Act or any neglect or default in the performance or exercise in good faith of such duty or power but any such action or proceeding may be brought against the municipality.

(2) The treasurer may delegate, in writing, to any officer or employee of the municipality any power or duty granted to or vested in the treasurer under this Act.

Delegation
of duties

17.—(1) The council of any county may by by-law enter into an agreement with any local municipality within the county authorizing the county treasurer to perform the duties of a treasurer under this Act in respect of land within the local municipality and providing for,

Collection of
tax arrears
by county

- (a) the payment to the county of that portion of the cancellation price that reflects the reasonable costs incurred by the county;
- (b) the method of cancelling any such agreement; and
- (c) such other matters as are necessary to carry out the agreement.

(2) Where an agreement is in force under this section, the county treasurer has all of the powers of the treasurer of the local municipality in relation to the collection of tax arrears, including the power to sell land under this Act, and the county treasurer shall perform all of the duties of the treasurer of the local municipality in relation thereto and only the county may pass by-laws under sections 8 and 15.

County
treasurer,
etc.

(3) Where an agreement under this section is in force, the treasurer of the local municipality shall provide the county treasurer with such information and assistance as is needed by the county treasurer to exercise the powers and duties of a treasurer under this Act.

Treasurer of
local
municipality

(4) Subject to the terms of the agreement, the county or the local municipality may by by-law cancel at any time an agreement entered into under this section.

Cancellation
of agreement

(5) Where a by-law is passed under subsection (4), the clerk of the municipality passing the by-law shall forthwith send a certified copy of the by-law by registered mail to the treasurer of the other municipality.

Notice of
cancellation

(6) Where an agreement under this section is cancelled, the treasurer of the local municipality shall assume the duties of a treasurer under this Act in respect of all land within the municipality except the land referred to in subsection (7).

Effect of
repeals

(7) Where an agreement under this section is cancelled, any proceedings under this Act started by the treasurer of the county in respect of land within the local municipality affected

Idem

by the repeal or cancellation shall be continued and concluded by the county treasurer.

Other upper
tier
municipalities

(8) This section applies with necessary modifications to every metropolitan, regional and district municipality as if a reference to a county were a reference to such municipality.

Regulations

18.—(1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing forms and providing for their use;
- (b) prescribing rules for the sale of lands under this Act by public sale and, without restricting the generality of the foregoing, the rules,
 - (i) shall set out the method of determining a successful purchaser, and
 - (ii) may require the submission of deposits, in such amount and in such form as may be set out in the rules, and for the forfeiture and disposition thereof.

Idem

(2) A regulation passed under subclause (1) (b) (i) shall provide that a person shall not be declared to be the successful purchaser unless the person's tender or bid is equal to or greater than the cancellation price and the person pays the sale price and land transfer tax payable with respect to the sale within such period of time as may be set out in the rules.

19. Clause 6 (b), sections 20, 40 to 47, 49 and 50, subsections 64 (2) and (3) and Forms 1 to 4 of the *Municipal Affairs Act*, being chapter 303 of the Revised Statutes of Ontario, 1980, are repealed.

20.—(1) Sections 397, 400, 402 to 405, 413 to 418, 420 to 464, 466 to 472 and Form 9 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Section 399 of the said Act is amended by striking out "county or other" in the first line.

(3) Section 401 of the said Act is repealed and the following substituted therefor:

Payments
on tax
arrears

401. The treasurer of every municipality shall collect the arrears of taxes outstanding after the return of the collector's roll and may receive part payment of taxes returned to the treasurer as in arrears upon any land for any year and shall

credit such payment first on account of the interest and percentage charges, if any, added to such taxes and shall credit the remainder of such payment against that part of the taxes that has been in arrears for the greatest period of time but no such payment shall be received after a tax arrears certificate has been registered under the *Municipal Tax Sales Act, 1984*. 1984, c. 48

(4) Section 409 of the said Act is repealed and the following substituted therefor:

409. The treasurer of a local municipality shall keep a duplicate blank receipt book, and on receipt of any sum of money for taxes on land shall deliver to the person making the payment one of such receipts, retaining the second of the set in the book, and the auditors shall examine and audit such books and accounts at least once in every year. Treasurer to keep duplicate receipt book

(5) Section 419 of the said Act is repealed and the following substituted therefor:

419. If there are to the knowledge of the treasurer goods and chattels liable to distress upon any land in arrear for taxes, he may levy the arrears of taxes and the costs by distress, and has the same authority to collect by distress as a collector has under this Act, and section 387 applies thereto. Where distress on premises, treasurer may distraint

(6) Sections 491, 492, 493 and 494 of the said Act are repealed and the following substituted therefor:

491. Every municipality is responsible to Her Majesty, and to all other persons interested, that all money coming into the hands of the treasurer of the municipality by virtue of the treasurer's office shall be duly paid over and accounted for by the treasurer according to law. Municipality responsible for such money

492. The treasurer and the treasurer's sureties are responsible and accountable for such money to the municipality and any bond or security given by them for the duly accounting for and paying over money belonging to the municipality applies to all money mentioned in section 484 and may be enforced against the treasurer or the treasurer's sureties in case of default. Treasurer, etc., responsible to municipality

493. The bond of the treasurer and the treasurer's sureties applies to school money and to all public money of Ontario and, in case of default, Her Majesty may enforce the responsibility of the municipality by stopping payment of a like amount out of any public money that would otherwise be payable to the municipality or to the treasurer thereof, or by action against the corporation. Bonds to apply to school money

City, etc.,
responsible
for default
of treasurer,
etc.

494. Any person aggrieved by the default of the treasurer may recover from the municipality the amount due or payable to such person as money had and received to the person's use.

(7) Form 8 of the said Act is amended by striking out the following paragraph:

"I hereby certify that the above statement shows all arrears of taxes returned to this office against the above lands, and that no part of the lands has been sold for taxes and no certificate of tax arrears has been registered against the lands within the last eighteen months, and that the return under section 397 of the *Municipal Act* has been made for the year 19..."

and inserting in lieu thereof:

1984, c. 48

"I hereby certify that the above statement shows all arrears of taxes against the above lands, and proceedings have (not) been commenced under the *Municipal Tax Sales Act, 1984*."

21.—(1) Subsection 53 (1) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1982, chapter 32, section 14, is further amended by inserting after "duties" in the eleventh line "including the powers and duties with respect to the sale of land for tax arrears" and by striking out "67 (5) to (12)" in the twelfth and thirteenth lines and inserting in lieu thereof "67 (5), (6) and (12)".

(2) Subsection 67 (1) of the said Act is amended by inserting after "duties" in the seventh line "including the powers and duties with respect to the sale of land for tax arrears".

(3) Subsections 67 (6) to (11) of the said Act are repealed and the following substituted therefor:

Tax sales
officer

1984, c. 48

(6) The board of a district school area shall name one of its officers as the officer of the board responsible for the sale of land for tax arrears and that officer has the same powers and duties as a treasurer under the *Municipal Tax Sales Act, 1984* and the board has the same powers and duties as a council under that Act.

(4) Subsection 69 (3) of the said Act is amended by inserting after "duties" in the sixth line "including the powers and duties with respect to the sale of land for tax arrears".

(5) Subsection 69 (6) of the said Act is amended by striking out "67 (5) to (12)" in the first line and inserting in lieu thereof "67 (5), (6) and (12)".

(6) Subsection 99 (2) of the said Act is repealed and the following substituted therefor:

(2) Every collector has the same powers in collecting the school rate, rate-bill or subscription and is under the same liabilities and obligations and shall proceed in the same manner as a township collector in collecting rates in a township and has the same powers and duties as a treasurer under the *Municipal Tax Sales Act, 1984* and the board by which the collector is employed has the same powers and duties as a council under that Act.

Powers and
duties of
collectors

1984, c. 48

(7) Subsection 112 (2) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 36, is further amended by inserting after “duties” in the tenth line “including the powers and duties with respect to the sale of land for tax arrears” and by striking out “67 (5) to (12)” in the twelfth line and inserting in lieu thereof “67 (5), (6) and (12)”.

22. Subsection 17 (2) of the *Assessment Act*, being chapter 31 of the Revised Statutes of Ontario, 1980, is repealed.

23.—(1) Notwithstanding section 19 or subsection 20 (1), but subject to subsection (2), where before the day this section comes into force, a tax arrears certificate is registered under the *Municipal Affairs Act* or a certificate is given under section 433 of the *Municipal Act* in respect of any land, the tax arrears proceedings of the applicable Act shall continue to apply to such land.

Transition

R.S.O. 1980,
cc. 303, 302

(2) Notwithstanding subsection (1), where land to which subsection (1) applies has not been the subject of a tax deed under the *Municipal Act* and has not been sold or declared necessary for municipal purposes under the *Municipal Affairs Act* by the 1st day of January, 1987, the land vests in the municipality on the day that a notice of forfeiture is registered under subsection (3).

Vesting

(3) After the 1st day of January, 1987, the treasurer shall register a notice of forfeiture in the prescribed form with respect to each parcel of land to which subsection (2) applies and the notice, when registered, vests in the municipality an estate in fee simple in the land, together with all rights, privileges and appurtenances, free from all estates and interest subject only to,

Notice of
forfeiture

- (a) easements and restrictive covenants that run with the land;

- (b) any estates and interests of the Crown in right of Canada or in right of Ontario; and
- (c) any interest or title acquired by adverse possession by abutting landowners before the registration of the notice.

Idem

(4) A notice of forfeiture, when registered, vests in the municipality any interest in or title to adjoining land acquired by adverse possession before the registration of the notice if the person originally acquiring the interest or title by adverse possession did so as a consequence of possession of the land described in the notice.

Effect of
registration
of notice of
forfeiture

(5) Subject to proof of fraud, every notice of forfeiture, when registered, is final, binding and conclusive and not subject to challenge for any reason including, without limiting the generality of the foregoing,

- (a) the invalidity of any assessment upon which the tax arrears were based; and
- (b) the breach of any requirements, including notice requirements, imposed by this or any other Act or otherwise by law,

and no action may be brought for the recovery of the land after the registration of the notice of forfeiture.

Idem

(6) Subsection (5) does not apply so as to prevent a person from bringing an action for damages against the municipality.

Compromise
agreementR.S.O. 1980,
c. 303

(7) Subsections (2), (3) and (4) do not apply to land that, on the 1st day of January, 1987, is the subject of a subsisting compromise agreement entered into under the *Municipal Affairs Act*.

Application
to
certain school
boards
R.S.O. 1980,
c. 129

(8) This section applies with necessary modifications to proceedings taken under the *Education Act* or any predecessor of that Act by a board authorized under such Act to collect school rates or subscriptions.

Commence-
ment

24.—(1) This Act, except sections 2 to 16 and 19 to 23, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 2 to 16 and 19 to 23 come into force on the 1st day of January, 1985.

Short title

25. The short title of this Act is the *Municipal Tax Sales Act, 1984*.

Bill 103

An Act to amend the Health Protection and Promotion Act, 1983

Mr. Cooke

1st Reading June 13th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

Section 5 of the Act lists the health programs and services to be provided by boards of health.

Subparagraph ii of paragraph 4 of the section now reads:

ii. establishment of family planning services.

Paragraph 7 now reads:

7. Public health education, including education in the prevention and control of life-style diseases.

Bill 103**1984**

**An Act to amend the
Health Protection and Promotion Act, 1983**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subparagraph ii of paragraph 4 of section 5 of the *Health Protection and Promotion Act, 1983*, being chapter 10, is repealed and the following substituted therefor:

- ii. establishment of family planning services, including services especially addressed to adolescents.

(2) Paragraph 7 of the said section 5 is repealed and the following substituted therefor:

- 7. Public health education, including,
 - i. education in the prevention and control of life-style diseases,
 - ii. education in the prevention of adolescent pregnancy.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Health Protection and Promotion Amendment Act, 1984*. Short title

Bill 104

An Act to amend the Farm Products Payments Act

The Hon. D. R. Timbrell
Minister of Agriculture and Food

1st Reading June 13th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. Clause 1 (f) of the Act defines "producer". The definition is extended, complementary to section 4 of the Bill.

SECTION 2. The Act now applies only upon a sale of a farm product. The amendment extends the application of the Act to farm produce stored under the *Grain Elevator Storage Act, 1983*.

SECTION 3. The amendment empowers a board to pay from its fund all or part of the costs incurred in determining financial responsibility for the purposes of certain licensing Acts.

SECTION 4. Section 8 of the Act authorizes the Lieutenant Governor in Council to make regulations. That authority is enlarged to provide for the designation of non-producer sellers as producers for the purposes of the Act.

Bill 104

1984

An Act to amend the Farm Products Payments Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (f) of the *Farm Products Payments Act*, being chapter 159 of the Revised Statutes of Ontario, 1980, is amended by striking out “and” at the end of subclause (ii), by adding “and” at the end of subclause (iii) and by adding thereto the following subclause:

- (iv) any person or class of persons engaged in selling a farm product or any class thereof, as an owner or owners or otherwise.

2. Section 3 of the said Act is amended by adding thereto the following subsection:

(1a) Where farm produce within the meaning of the *Grain Elevator Storage Act, 1983* is stored under that Act, and, Idem
1983, c. 40

- (a) the grain elevator operator fails to deliver to the owner the whole or any part of such farm produce upon demand therefor; or
- (b) the whole or any part of the grain elevator operator's assets have been placed in the hands of a trustee for distribution under the *Bankruptcy Act* (Canada) or the *Bulk Sales Act* or in the hands of a receiver for distribution pursuant to a debenture or like instrument and the trustee or receiver fails to deliver to the owner the whole or any part of such farm produce upon demand therefor,

R.S.C. 1970,
c. B-3;
R.S.O. 1980,
c. 52

the owner may apply to the board that administers the fund for the farm produce claiming payment from such fund.

3. Section 7 of the said Act is amended by adding thereto the following subsection:

Payment
from fund

(2) A board may pay from its fund the whole or any part of the costs incurred in determining financial responsibility for the purposes of an Act mentioned in subsection (1).

4. Section 8 of the said Act is amended by adding thereto the following clause:

(ba) designating as a producer any person or class of persons engaged in selling a farm product or any class thereof as an owner or owners or otherwise, and may limit the extent of any such designation.

Commencement

5. This Act comes into force on the day it receives Royal Assent.

Short title

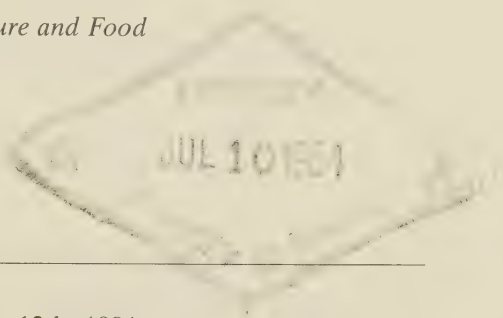
6. The short title of this Act is the *Farm Products Payments Amendment Act, 1984*.

Bill 104

*(Chapter 39
Statutes of Ontario, 1984)*

An Act to amend the Farm Products Payments Act

The Hon. D. R. Timbrell
Minister of Agriculture and Food



<i>1st Reading</i>	June 13th, 1984
<i>2nd Reading</i>	June 21st, 1984
<i>3rd Reading</i>	June 22nd, 1984
<i>Royal Assent</i>	June 27th, 1984

Bill 104

1984

An Act to amend the Farm Products Payments Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (f) of the *Farm Products Payments Act*, being chapter 159 of the Revised Statutes of Ontario, 1980, is amended by striking out “and” at the end of subclause (ii), by adding “and” at the end of subclause (iii) and by adding thereto the following subclause:

- (iv) any person or class of persons engaged in selling a farm product or any class thereof, as an owner or owners or otherwise.

2. Section 3 of the said Act is amended by adding thereto the following subsection:

(1a) Where farm produce within the meaning of the *Grain Elevator Storage Act, 1983* is stored under that Act, and, Idem
1983, c. 40

- (a) the grain elevator operator fails to deliver to the owner the whole or any part of such farm produce upon demand therefor; or
- (b) the whole or any part of the grain elevator operator's assets have been placed in the hands of a trustee for distribution under the *Bankruptcy Act* (Canada) or the *Bulk Sales Act* or in the hands of a receiver for distribution pursuant to a debenture or like instrument and the trustee or receiver fails to deliver to the owner the whole or any part of such farm produce upon demand therefor,

R.S.C. 1970,
c. B-3;
R.S.O. 1980,
c. 52

the owner may apply to the board that administers the fund for the farm produce claiming payment from such fund.

3. Section 7 of the said Act is amended by adding thereto the following subsection:

Payment
from fund

(2) A board may pay from its fund the whole or any part of the costs incurred in determining financial responsibility for the purposes of an Act mentioned in subsection (1).

4. Section 8 of the said Act is amended by adding thereto the following clause:

(ba) designating as a producer any person or class of persons engaged in selling a farm product or any class thereof as an owner or owners or otherwise, and may limit the extent of any such designation.

Commencement

5. This Act comes into force on the day it receives Royal Assent.

Short title

6. The short title of this Act is the *Farm Products Payments Amendment Act, 1984*.

Bill 105

An Act to amend the Farm Products Grades and Sales Act

The Hon. D. R. Timbrell
Minister of Agriculture and Food

1st Reading June 13th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1.—Subsection 1. Subsection 2 (1) of the Act authorizes the Lieutenant Governor in Council to make regulations. The amendment enlarges that authority.

Subsection 2. The authority of the Lieutenant Governor in Council to adopt federal regulations by reference is enlarged.

SECTION 2. Clause 10 (2) (c) of the Act, which deals with the issue of a licence, now reads as follows:

(c) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations.

The re-enactment extends the application of the clause to the terms and conditions upon which a licence is issued.

SECTION 3. Clause 11 (b) of the Act is re-enacted to make it apply to the terms of a licence in the same manner as it now applies to the conditions of a licence.

The clause deals with grounds for the refusal to renew or the suspension or revocation of a licence.

SECTION 4. Section 12 of the Act deals with licences for controlled-atmosphere storage plants, etc. The re-enactment of clause 12 (4) (d) of the Act is complementary to section 6 of the Bill.

SECTION 5. Section 13 of the Act also deals with licences for controlled-atmosphere storage plants, etc. The re-enactment of clause 13 (b) of the Act is complementary to section 6 of the Bill.

SECTION 6. The new section 13a deals with the imposition of terms and conditions upon a licence by the Director.

The new section 13b deals with the provisional suspension of or refusal to renew a licence.

SECTION 7. Section 14 of the Act provides for the continuation of a licence pending renewal. The grounds for continuation of a licence pending renewal are enlarged.

SECTION 8.—Subsection 1. Subsection 17 (1) of the Act now reads as follows:

(1) Where the Director refuses to issue or renew or suspends or revokes a licence, the applicant or licensee may, by written notice delivered to the Director and filed with the Board within thirty days after receipt of the decision of the Director, appeal to the Board.

The subsection is enlarged to provide an appeal where, after a hearing, the Director imposes terms and conditions upon a licence or refuses to vary a term or condition of a licence.

Subsection 2. Subsection 17 (3) of the Act now reads as follows:

(3) Where an applicant or licensee appeals to the Board under this section, the Board shall hear the appeal by way of a hearing de novo to determine whether the licence should be issued, renewed, suspended or revoked and may after the hearing confirm or alter the decision of the Director or direct the Director to do any act he is authorized to do under this Act and the regulations and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the Director.

The words being revoked are redundant. The matters that are appealable are set out in subsection 17 (1) of the Act.

SECTION 9. Section 23 of the Act now reads as follows:

23.—(1) *Except as provided in subsection (2), every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$25 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for a subsequent offence.*

(2) *Every person who contravenes any of the provisions of section 8 is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$1,000.*

A separate offence of engaging in business, without a licence therefor, as a dealer in a farm product for which a fund has been established under the *Farm Products Payments Act* is created and minimum fines are established.

For any other offence, the minimum fines are abolished and the maximum fines are increased.

Bill 105

1984

**An Act to amend the
Farm Products Grades and Sales Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clauses 2 (1) (k), (p) and (u) of the *Farm Products Grades and Sales Act*, being chapter 157 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

- (k) providing for the exemption from this Act and the regulations, or any part thereof, of any person or class of persons or any farm product or class, variety, grade or size of farm product;

.
- (p) prescribing grounds for refusal to issue or renew, suspension or revocation of licences in addition to the grounds mentioned in section 10, 11, 12 or 13, as the case may be;
- (pa) requiring the furnishing of security or proof of financial responsibility by dealers or any class thereof and providing for the administration, forfeiture and disposition of any moneys or securities so furnished;
- (pb) prescribing the manner in which, and the conditions under which, a dealer or any class thereof shall make payment for farm products or any class thereof;

.
- (u) prescribing the books and records to be kept, reports to be made and information to be furnished

by dealers or any class thereof, and the places at which such books and records shall be kept;

(ua) establishing classes of dealers;

(ub) establishing classes of farm products.

(2) Subsection 2 (4) of the said Act is repealed and the following substituted therefor:

Adoption by
reference

(4) Any regulation made under this section may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any grade, standard, grade name or mark, packaging, packing, marking or labelling requirement or specification of containers or packages established under the *Canada Agricultural Products Standards Act*, as amended or re-enacted from time to time, and may require compliance with any such grade, standard, grade name or mark, packaging, packing, marking or labelling requirement or specification of containers or packages so adopted, including any such changes.

R.S.C. 1970,
c. A-8

2. Clause 10 (2) (c) of the said Act is repealed and the following substituted therefor:

(c) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations or the terms and conditions upon which the licence is issued.

3. Clause 11 (b) of the said Act is repealed and the following substituted therefor:

(b) the licensee or, where the licensee is a corporation, any officer, director or servant thereof has contravened or has permitted any person under his control or direction in connection with the business to contravene, any provision of this Act or the regulations or of any other law in force in Ontario applying to the carrying on of such business or the terms and conditions of the licence and such contravention warrants such refusal to renew, suspension or revocation of the licence.

4. Clause 12 (4) (d) of the said Act is repealed and the following substituted therefor:

(d) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations or

the terms and conditions upon which the licence is issued.

5. Clause 13 (b) of the said Act is repealed and the following substituted therefor:

- (b) the licensee or, where the licensee is a corporation, any officer, director or servant thereof has contravened or has permitted any person under his control or direction in connection with the business to contravene, any provision of this Act or the regulations or of any other law in force in Ontario applying to the carrying on of such business or the terms and conditions of the licence and such contravention warrants such refusal to renew, suspension or revocation of the licence.

6. The said Act is amended by adding thereto the following sections:

13a.—(1) The Director may impose such terms and conditions upon a licence as he considers proper.

Terms and conditions

(2) Where a licensee is not satisfied with a term or condition imposed upon his licence by the Director, he may apply to the Director to have the term or condition varied or removed and, where the Director proposes to refuse to vary or remove the term or condition, he shall hold a hearing.

Variation or removal of term or condition

13b.—(1) Notwithstanding section 11 or 13, the Director may, without a hearing, provisionally suspend or refuse to renew a licence where in his opinion it is necessary to do so for the immediate protection of,

Provisional suspension or refusal to renew

- (a) the safety or health of any person or the public;
- (b) the interests of persons selling farm products to the licensee; or
- (c) a fund for producers of farm products established under the *Farm Products Payments Act*.

R.S.O. 1980, c. 159

(2) Notice of suspension or refusal to renew under subsection (1), together with the reasons therefor, shall be given forthwith to the licensee and, as soon as is practicable thereafter, the Director shall hold a hearing to determine whether the licence should be further suspended or revoked or whether renewal of the licence should be refused.

Notice of suspension or refusal to renew

7. Section 14 of the said Act is repealed and the following substituted therefor:

Continuation
of licence
pending
renewal

14. Subject to section 13b, where within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has,

- (a) applied for a renewal of his licence;
- (b) paid the prescribed fee;
- (c) where proof of financial responsibility or security is required, furnished or deposited such proof or security; and
- (d) observed or carried out the other provisions of this Act and the regulations and the terms and conditions upon which the licence was issued,

his existing licence shall be deemed to continue until he has received the decision of the Director on his application for renewal.

8.—(1) Subsection 17 (1) of the said Act is repealed and the following substituted therefor:

Appeal to
Board

(1) Where the Director refuses to issue or renew or suspends or revokes a licence or, after a hearing, imposes terms or conditions upon a licence or refuses to vary a term or condition of a licence, the applicant or licensee may by written notice delivered to the Director and filed with the Board within fifteen days after receipt of the decision of the Director appeal to the Board.

(2) Subsection 17 (3) of the said Act is amended by striking out “to determine whether the licence should be issued, renewed, suspended or revoked” in the third and fourth lines.

9. Section 23 of the said Act is repealed and the following substituted therefor:

Offence

23.—(1) Subject to subsection (2), every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 for a first offence and not more than \$5,000 for any subsequent offence.

Idem
R.S.O. 1980,
c. 159

(2) Where a fund for producers of a farm product is established under the *Farm Products Payments Act*, every person who commences or continues to carry on business as a dealer

in such farm product without a licence therefor from the Director is guilty of an offence and on conviction is liable to a fine of not less than \$2,000 for a first offence and not less than \$5,000 for any subsequent offence.

10. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

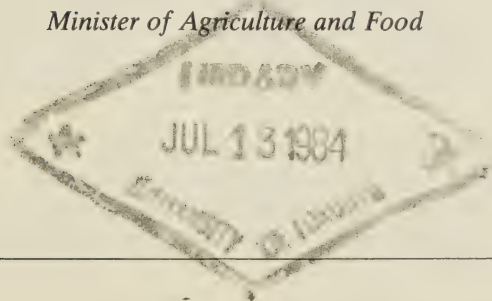
11. The short title of this Act is the *Farm Products Grades and Sales Amendment Act, 1984*. Short title

Bill 105

*(Chapter 40
Statutes of Ontario, 1984)*

An Act to amend the Farm Products Grades and Sales Act

The Hon. D. R. Timbrell
Minister of Agriculture and Food



<i>1st Reading</i>	June 13th, 1984
<i>2nd Reading</i>	June 21st, 1984
<i>3rd Reading</i>	June 22nd, 1984
<i>Royal Assent</i>	June 27th, 1984

Bill 105

1984

**An Act to amend the
Farm Products Grades and Sales Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clauses 2 (1) (k), (p) and (u) of the *Farm Products Grades and Sales Act*, being chapter 157 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

- (k) providing for the exemption from this Act and the regulations, or any part thereof, of any person or class of persons or any farm product or class, variety, grade or size of farm product;
-
- (p) prescribing grounds for refusal to issue or renew, suspension or revocation of licences in addition to the grounds mentioned in section 10, 11, 12 or 13, as the case may be;
- (pa) requiring the furnishing of security or proof of financial responsibility by dealers or any class thereof and providing for the administration, forfeiture and disposition of any moneys or securities so furnished;
- (pb) prescribing the manner in which, and the conditions under which, a dealer or any class thereof shall make payment for farm products or any class thereof;
-
- (u) prescribing the books and records to be kept, reports to be made and information to be furnished

by dealers or any class thereof, and the places at which such books and records shall be kept;

(ua) establishing classes of dealers;

(ub) establishing classes of farm products.

(2) Subsection 2 (4) of the said Act is repealed and the following substituted therefor:

Adoption by
reference

(4) Any regulation made under this section may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any grade, standard, grade name or mark, packaging, packing, marking or labelling requirement or specification of containers or packages established under the *Canada Agricultural Products Standards Act*, as amended or re-enacted from time to time, and may require compliance with any such grade, standard, grade name or mark, packaging, packing, marking or labelling requirement or specification of containers or packages so adopted, including any such changes.

R.S.C. 1970,
c. A-8

2. Clause 10 (2) (c) of the said Act is repealed and the following substituted therefor:

(c) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations or the terms and conditions upon which the licence is issued.

3. Clause 11 (b) of the said Act is repealed and the following substituted therefor:

(b) the licensee or, where the licensee is a corporation, any officer, director or servant thereof has contravened or has permitted any person under his control or direction in connection with the business to contravene, any provision of this Act or the regulations or of any other law in force in Ontario applying to the carrying on of such business or the terms and conditions of the licence and such contravention warrants such refusal to renew, suspension or revocation of the licence.

4. Clause 12 (4) (d) of the said Act is repealed and the following substituted therefor:

(d) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations or

the terms and conditions upon which the licence is issued.

5. Clause 13 (b) of the said Act is repealed and the following substituted therefor:

- (b) the licensee or, where the licensee is a corporation, any officer, director or servant thereof has contravened or has permitted any person under his control or direction in connection with the business to contravene, any provision of this Act or the regulations or of any other law in force in Ontario applying to the carrying on of such business or the terms and conditions of the licence and such contravention warrants such refusal to renew, suspension or revocation of the licence.

6. The said Act is amended by adding thereto the following sections:

13a.—(1) The Director may impose such terms and conditions upon a licence as he considers proper.

Terms and conditions

(2) Where a licensee is not satisfied with a term or condition imposed upon his licence by the Director, he may apply to the Director to have the term or condition varied or removed and, where the Director proposes to refuse to vary or remove the term or condition, he shall hold a hearing.

Variation or removal of term or condition

13b.—(1) Notwithstanding section 11 or 13, the Director may, without a hearing, provisionally suspend or refuse to renew a licence where in his opinion it is necessary to do so for the immediate protection of,

Provisional suspension or refusal to renew

- (a) the safety or health of any person or the public;
- (b) the interests of persons selling farm products to the licensee; or
- (c) a fund for producers of farm products established under the *Farm Products Payments Act*.

R.S.O. 1980, c. 159

(2) Notice of suspension or refusal to renew under subsection (1), together with the reasons therefor, shall be given forthwith to the licensee and, as soon as is practicable thereafter, the Director shall hold a hearing to determine whether the licence should be further suspended or revoked or whether renewal of the licence should be refused.

Notice of suspension or refusal to renew

7. Section 14 of the said Act is repealed and the following substituted therefor:

Continuation
of licence
pending
renewal

14. Subject to section 13b, where within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has,

- (a) applied for a renewal of his licence;
- (b) paid the prescribed fee;
- (c) where proof of financial responsibility or security is required, furnished or deposited such proof or security; and
- (d) observed or carried out the other provisions of this Act and the regulations and the terms and conditions upon which the licence was issued,

his existing licence shall be deemed to continue until he has received the decision of the Director on his application for renewal.

8.—(1) Subsection 17 (1) of the said Act is repealed and the following substituted therefor:

Appeal to
Board

(1) Where the Director refuses to issue or renew or suspends or revokes a licence or, after a hearing, imposes terms or conditions upon a licence or refuses to vary a term or condition of a licence, the applicant or licensee may by written notice delivered to the Director and filed with the Board within fifteen days after receipt of the decision of the Director appeal to the Board.

(2) Subsection 17 (3) of the said Act is amended by striking out “to determine whether the licence should be issued, renewed, suspended or revoked” in the third and fourth lines.

9. Section 23 of the said Act is repealed and the following substituted therefor:

Offence

23.—(1) Subject to subsection (2), every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 for a first offence and not more than \$5,000 for any subsequent offence.

Idem
R.S.O. 1980,
c. 159

(2) Where a fund for producers of a farm product is established under the *Farm Products Payments Act*, every person who commences or continues to carry on business as a dealer

in such farm product without a licence therefor from the Director is guilty of an offence and on conviction is liable to a fine of not less than \$2,000 for a first offence and not less than \$5,000 for any subsequent offence.

10. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

11. The short title of this Act is the *Farm Products Grades and Sales Amendment Act, 1984*. Short title

Bill 106

An Act to amend certain Statutes in the Resources Development Policy Field

The Hon. N. W. Sterling
Provincial Secretary for Resources Development

1st Reading June 18th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. The Minister's authority to designate a Superintendent of Agricultural Associations under the *Agricultural Associations Act* is clarified.

SECTION 2. This section contains amendments to the *Algonquin Forestry Authority Act*.

Subsection 1. Subsection 6 (1) of the Act now reads as follows:

(1) *The Authority may, subject to the approval of the Lieutenant Governor in Council, establish job classifications, personnel qualifications, duties, powers and salary ranges for its officers and employees and may appoint, employ and promote its officers and employees in conformity with the classifications, qualifications and salary ranges so approved and may dismiss its officers and employees for just cause.*

Subsection 2. Subsection 9 (4) of the Act now reads as follows:

(4) *The Authority is responsible to and subject to the direction and control of the Minister and, without limiting the generality of the foregoing, the Minister may determine for the Authority,*

(a) *production and operational objectives aimed at regulating the flow of logs;*

(b) *social objectives aimed at maintaining or improving employment levels in the forest industry; and*

(c) *financial, commercial and economic objectives aimed at ensuring reasonable prices for logs produced by or on behalf of the Authority and ensuring a reasonable rate of return on the capital invested in the Authority.*

Subsection 3. Self-explanatory.

Subsection 4. A power to invest surplus funds in bank or trust company term deposits is being added to subsection 13 (2).

SECTION 3.—Subsection 1. At present, in the *Animals for Research Act*, "Director" means the Director of the Veterinary Services Branch of the Ministry of Agriculture and Food. That position no longer exists in the public service.

Subsection 2. The Minister is empowered to appoint a Director for the purposes of the Act.

SECTION 4.—Subsection 1. Clause 1 (c) of the *Artificial Insemination of Live Stock Act* now reads as follows:

(c) *"Commissioner" means the Live Stock Commissioner.*

That position no longer exists in the public service.

Subsection 2. Complementary to subsection 3.

Subsection 3. The Minister is authorized to appoint a Director for the purposes of the Act.

Subsection 4. Complementary to subsection 3.

SECTION 5. This section amends the *Beef Cattle Marketing Act*. See the notes to section 3 of the Bill.

SECTION 6. Section 3 of the *Bridges Act* prohibits any person from building, operating or maintaining bridges where the cost is over \$2,000 unless that person is domiciled and residing in Ontario or is an Ontario or Federal corporation.

SECTION 7. This section amends the *Brucellosis Act*. See the notes to section 3 of the Bill.

SECTION 8. This amendment under the *Consolidated Hearings Act, 1981* corrects an internal reference.

SECTION 9. This section contains amendments to the *Crown Timber Act*.

Subsection 1. The amendment converts “160 acres” to “65 hectares”.

Subsection 2. Subsection 7 (2) of the Act now reads as follows:

(2) Every licensee shall pay annually an area charge in respect of the productive lands comprised in the licensed area.

The subsection is re-enacted to make it subject to the new subsections (3) and (4).

The new subsections exempt a licensee from the payment of an area charge in the circumstances set out.

Subsection 3. Clause 27 (1) (b) of the Act now reads as follows:

27.—(1) Every licensee shall furnish to the Minister,

(b) not later than the 31st day of October in each year a map showing the boundaries and the acreages of the areas cut over and the parts thereof that were not cut during the twelve-month period ending on the 31st day of March of that year together with a statement of the acreages of the areas cut over, the parts thereof that were not cut and the amount, species and size of timber cut from each cutting area during such period.

The underlined words are changed to read “area in hectares of the lands”.

Subsection 4. Subsection 27 (2) of the Act now reads as follows:

(2) The Minister may approve an annual plan or may approve it with such alterations as he considers advisable, and, where the alterations involve the alteration of an approved management plan or operating plan, the management plan or the operating plan, as the case may be, shall be deemed to be altered accordingly.

The subsection is re-enacted to ensure that an annual plan shall be approved only when it is consistent with an approved management or operating plan.

Subsection 5. Section 41 of the Act now reads as follows:

41. The Minister may authorize a manual of scaling instructions prescribing the method of measuring Crown timber.

The new subsection (1) is complementary to the new subsection (2).

Subsection (2) authorizes the Minister to specify the method or methods prescribed in the approved manual of scaling instructions that he considers advisable for the measuring of any Crown timber.

Subsection 6. Subsection 42 (1) of the Act now reads as follows:

(1) It is the duty of every licensed scaler or holder of a special permit to measure in accordance with the authorized manual of scaling instructions all Crown timber that he is employed to measure, making only such deductions as are authorized by the manual, and to enter in a book of record, for the purpose of a return to the Ministry, the contents of the timber or pulpwood measured by him and the number of logs rejected as culls.

The re-enactment of the subsection is complementary to subsection 9 (5) of the Bill.

Subsection 7. Section 44 of the Act now reads as follows:

44.—(1) Pulpwood cut in lengths of more than eight feet shall be measured in cubic feet of solid wood and not in stacked cords.

(2) Pulpwood cut in lengths of eight feet or less may be measured in cubic feet of solid wood or in stacked cords, as the Minister directs.

(3) Where a licensee is required or permitted to measure pulpwood in cubic feet of solid wood, he is entitled to convert 85 cubic feet of solid wood into 128 cubic feet of stacked wood.

Subsections (1) and (2) of the section are made redundant by the new subsection 41 (2) of the Act (subsection 9 (5) of the Bill).

Subsection (3) of the section is no longer required. Conversion factors are now prescribed by the regulations.

Subsection 8. Clauses 48 (1) (a), (b), (c) and (d) of the Act provide in each instance a penalty for a certain contravention of the Act or the regulations and a method for determining the minimum and maximum penalty.

The clauses are re-enacted to provide in each instance that in no case shall the penalty be less than \$100.

Subsection 9. Clause 53 (f) of the Act now reads as follows:

53. The Lieutenant Governor in Council may make regulations,

(f) fixing the fees to be paid on the transfer of a licence.

The clause is re-enacted to extend its application as set out therein.

SECTION 10. This section amends the *Dead Animal Disposal Act*. See the notes to section 3 of the Bill.

SECTION 11. This section amends the *Dog Licensing and Live Stock and Poultry Protection Act*. See the notes to section 3 of the Bill.

SECTION 12.—Subsections 1 and 2. Section 136 of the *Environmental Protection Act* relates to the making of regulations. Clauses 136 (1) (o), (p) and (q) are similar to clauses 136 (3) (a), (b) and (c) which are repealed by this Bill. The effect is to move these clauses from the subsection related to Part IV of the Act to the subsection that provides general authority to make regulations.

Subsection 3. The amendments correct internal references.

SECTION 13. Subsection 2 (2) of the *Farm Products Payments Act* now reads as follows:

(2) The Lieutenant Governor in Council may appoint the members of a board and fix the remuneration of members who are not employed in the public service of Ontario.

The subsection as re-enacted will permit the Lieutenant Governor in Council to designate a chairman and vice-chairman of a farm products payments board.

SECTION 14. This section amends the *Fur Farms Act*. See notes to section 3 of the Bill.

SECTION 15. This section contains amendments to the *Game and Fish Act*.

Subsection 1. The definitions of “fish” and “culture” are included in the Act to clarify the meaning of these words in the new section 72 (see subsection 6 of this section of the Bill).

Subsection 2. The reference to “propagated” in paragraph 10 of section 1 is changed to “cultured” which has a wider meaning (i.e. propagation and husbandry). Paragraph 10 now reads as follows:

10. “fishing preserve” means an artificial or man-made body of water lying wholly within the boundaries of privately-owned land, containing water from surface run-off, natural springs, ground water or water diverted or pumped from a stream or lake but not being composed of natural streams, ponds or lakes or water impounded by the damming of natural streams and in which fish propagated under a licence or fish taken under a commercial fishing licence are released for angling purposes.

Subsection 3. The definition of “Ontario water” is included to clarify the intent of section 72 (see subsection 6 of this section of the Bill).

Subsection 4. Subsection 47 (1) of the Act which deals with the regulation of open season on game animals is amended by deleting the reference to “polar bear”. Polar bear is controlled elsewhere in the Act and regulations as a fur-bearing animal. Subsection 47 (1) now reads as follows:

(1) Except under the authority of a licence and during such times and on such terms and conditions and in such parts of Ontario as are prescribed in the regulations, no person shall hunt black bear, polar bear, caribou, deer, elk or moose.

Subsection 5. See note for subsection 4 of this section of the Bill.

Subsection 6. Section 72 of the Act is re-enacted to ensure that only commercially licensed operators may sell fish in an initial transaction. The amendment removes the unnecessary licence to sell trout but adds to the list of species that may be cultured and sold in Ontario (i.e. American eel (not lamprey), Atlantic salmon, brown trout, bullhead catfish, channel catfish, lake sturgeon, lake whitefish, splake, yellow perch, yellow pickerel (walleye) and suckers). The section also prohibits the possession of fish taken out of season except where taken from a private commercially operated fishing preserve.

Subsection 7. Subsection 89 (1) of the Act is re-enacted to provide for the cancellation of a trapper’s or commercial fishing licence that is issued subsequent to an offence being committed under the Act or the regulations, the *Fisheries Act* (Canada) or the Ontario Fishery Regulations. Previously, a number of remands could mean that a conviction was not registered until that year’s licence had expired. Subsection 89 (1) now reads as follows:

(1) Upon the conviction of any person of an offence against this Act or the Ontario Fishery Regulations, any licence, except a licence to hunt, other than a licence to hunt or

trap fur-bearing animals, which is held by him and which is related to the offence, shall be deemed to be cancelled without further action or notice, but the Minister may revive the licence upon such terms and conditions as he considers proper.

Subsection 8. The amendment would permit regulations to be made to govern the selling of licences.

SECTION 16. This section amends the *Live Stock and Live Stock Products Act*. See notes to section 3 of the Bill.

SECTION 17. Section 4 of the *Live Stock Branding Act* now reads as follows:

4. The Live Stock Commissioner shall be the recorder of brands and shall receive applications, keep a record of all brands allotted and make transfers and cancellations in accordance with this Act.

The section is re-enacted to provide for the appointment of a Director for the purposes of the Act.

SECTION 18. This section amends the *Live Stock Community Sales Act*. See notes to section 3 of the Bill.

SECTION 19.—Subsections 1 and 3. This section amends the *Live Stock Medicines Act*. See notes to section 3 of the Bill.

Subsection 2. Clause 2 (1) (a) of the *Live Stock Medicines Act* now reads as follows:

(a) one member representing the Veterinary Services Branch of the Ministry of Agriculture and Food.

That branch no longer exists.

SECTION 20. Clause 5 (b) of the *Local Roads Boards Act* prohibits a person being elected or appointed a trustee of a board unless he is a Canadian citizen.

The amendment is intended to eliminate any potential conflict with the new *Charter of Rights and Freedoms*.

SECTION 21. This section amends the *Meat Inspection Act* (Ontario). See notes to section 3 of the Bill.

SECTION 22. The proposed section 9 is added to the *Ministry of Transportation and Communications Act* to provide protection from personal liability for the Deputy Minister, the staff of the Ministry and anyone acting under authority. The section preserves the liability of the Crown.

The section does not prevent a person from being charged with an offence under the *Criminal Code* (Canada) or any other provincial statute.

SECTION 23. This section re-enacts subsections 2 (3), (4) and (5) of *The Municipal and School Tax Credit Assistance Act*, being chapter 285 of the Revised Statutes of Ontario, 1970. The section provides for the continuance of existing liens and it also provides a mechanism for the discharge or partial discharge of those liens. While the said Act was repealed by subsection 19 (1) of *The Ontario Pensioners Property Tax Assistance Act, 1980*, subsection 19 (2) of that Act provided for the continuance of the lien and discharge provisions of the repealed Act. The Bill transfers the administration of the lien discharge provisions from the Treasurer of Ontario to the Minister of Municipal Affairs and Housing. This reflects existing practice. The re-enacted provision also clarifies the power of the Minister to discharge a lien where a notice of lien was registered in error.

The section also has the effect of confirming certificates of discharge and partial discharge and postponements given before the Bill receives Royal Assent.

SECTION 24. This section contains amendments to the *Ontario Energy Board Act*.

Subsection 1. Section 4 of the Act relates to the staff of the Ontario Energy Board. The subsection as amended will require that appointments to the staff of the Board be made under the *Public Service Act*.

Subsection 2. New subsection 4 (2) of the Act will permit the Board to employ additional staff on a temporary or short-term basis.

Subsection 3. Subsection 34 (1) of the Act relates to offences. The subsection is amended to remove the minimum penalty and the penalty of imprisonment.

Subsection 4. The reference to section 28 of the *Expropriations Act* is repealed since that section was repealed by the *Expropriations Amendment Act, 1983*, being chapter 47.

SECTION 25. Section 43 of the *Ontario Northland Transportation Commission Act* now reads as follows:

43. No action shall be brought against the Commission or against any member thereof for anything done or omitted in the exercise of his office without the consent of the Attorney General.

The section is repealed as it is unnecessary.

SECTION 26. The repeal of subsection 19 (2) of *The Ontario Pensioners Property Tax Assistance Act, 1980* is consistent with the changes in section 23 of the Bill.

SECTION 27.—Subsection 1. Section 7 of the *Ontario Transportation Development Corporation Act* requires that a majority of the members of the Board shall at all times be resident Canadians.

Subsection 2. Subsection 14 (1) defines a “non-resident” and subsection 14 (2) limits equity shares held by non-residents to 5 per cent of the total number of issued and outstanding equity shares.

SECTION 28.—Subsection 1. Clause 1 (1) (a) of the *Parks Assistance Act* now reads as follows:

(a) “*approved park*” means a park approved for assistance under this Act.

The new clause would extend the application of the Act to natural recreational areas generally.

Subsection 2. Section 3 of the Act now reads as follows:

3.—(1) The Minister, with the approval of the Lieutenant Governor in Council, may make grants out of moneys appropriated therefor by the Legislature to any municipality to assist in,

(a) *the acquisition of land for an approved park;*

(b) *the development of an approved park; and*

(c) *the conversion of a provincial or public park into an approved park.*

(2) The assistance granted under subsection (1) in respect of any one park shall not exceed \$100,000 or 50 per cent of the total cost of acquiring the land and developing the

park or of converting a provincial or public park into an approved park, whichever is the lesser.

(3) The assistance granted under clause (1) (a) for the acquisition of land shall not exceed \$25,000 or 50 per cent of the total cost of acquiring the land, whichever is the lesser.

The new section would authorize the Minister to make grants out of moneys appropriated by the Legislature without the approval of the Lieutenant Governor in Council and would increase the ceiling on individual grants from \$100,000 to \$150,000. The ceiling on acquisition costs (existing subsection 3 (3)) is removed.

SECTION 29. This section amends the *Provincial Auctioneers Act*. See notes to section 3 of the Bill.

SECTION 30.—Subsection 1. This section contains amendments to the *Provincial Parks Act*. The re-enactment is intended to clarify the status of parks officials as peace officers.

Subsection 2. All roads, trails and portages in provincial parks that are not under the control of the Ministry of Transportation and Communications are closed to travel unless they are specifically designated as open. Parks officials may grant permits for travel on closed roads.

Subsection 3. The sale of liquor, hitherto prohibited in provincial parks, is to be permitted in licensed restaurants and resorts in provincial parks.

Subsection 4. The amendments would authorize regulations controlling the parking of vehicles in provincial parks.

Subsection 5. The maximum fine is increased from \$500 to \$3,000.

SECTION 31. The proposed subsections 43 (1a) to (1c) of the *Public Utilities Act* will permit public utilities commissions to pay the expenses incurred by their members. A commission will be authorized to provide for the reimbursement of the actual expenses incurred or may provide for the payment on an allowance basis. For example, expenses for travelling by automobile could be paid on the basis of actual cost or on the basis of a rate for each kilometre travelled.

SECTION 32.—Subsection 1. The requirement that a majority of the directors of a company that has received government aid be British subjects is being deleted from *The Railways Act*, being chapter 331 of the Revised Statutes of Ontario, 1950.

Subsection 2. Section 266 of the Act prohibits a company from employing persons who are colour blind in a position that requires a person to distinguish colour signals.

Subsection 3. Subsection 270 (6) of the Act prohibits any person being employed in the construction of a railway if that person is a citizen of a country having alien labour laws excluding Canadians from certain employment.

SECTION 33. This section amends the *Riding Horse Establishments Act*. See notes to section 3 of the Bill.

SECTION 34.—Subsections 1 and 2. The requirement under the *Statute Labour Act* that a person be a British subject in order to be entitled to vote for road commissioners is being removed.

Subsection 3. The requirement that a person be a British subject in order to be a road commissioner is being removed.

Subsections 4 and 5. The portion of the oath administered to a voter at a meeting stating that he is a British subject is being removed.

SECTION 35.—Subsection 1. New paragraph 7 of subsection 44 (1) of the *Surveys Act* provides a method for re-establishing part of an obliterated section boundary in a sectional township with sections and quarter sections, with or without road allowances, where the section is partly or wholly broken by a lake or river.

Subsection 2. Section 46 of the Act now reads as follows:

46. The interior boundaries of half sections or quarter sections shall be surveyed by connecting the opposite quarter section corners on the boundaries of the section by straight lines.

The proposed re-enactment of the section provides detailed methods for establishing interior boundaries of quarter sections in sectional townships with sections and quarter sections with or without road allowances.

SECTION 36. Imperial units of measurement referred to in the *Trees Act* are converted to metric.

Bill 106

1984

An Act to amend certain Statutes in the Resources Development Policy Field

CONTENTS

Acts amended

Section	Section
1. <i>Agricultural Associations Act</i>	20. <i>Local Roads Boards Act</i>
2. <i>Algonquin Forestry Authority Act</i>	21. <i>Meat Inspection Act (Ontario)</i>
3. <i>Animals for Research Act</i>	22. <i>Ministry of Transportation and Communications Act</i>
4. <i>Artificial Insemination of Live Stock Act</i>	23. <i>The Municipal and School Tax Credit Assistance Act</i>
5. <i>Beef Cattle Marketing Act</i>	24. <i>Ontario Energy Board Act</i>
6. <i>Bridges Act</i>	25. <i>Ontario Northland Transportation Commission Act</i>
7. <i>Brucellosis Act</i>	26. <i>The Ontario Pensioners Property Tax Assistance Act, 1980</i>
8. <i>Consolidated Hearings Act, 1981</i>	27. <i>Ontario Transportation Development Corporation Act</i>
9. <i>Crown Timber Act</i>	28. <i>Parks Assistance Act</i>
10. <i>Dead Animal Disposal Act</i>	29. <i>Provincial Auctioneers Act</i>
11. <i>Dog Licensing and Live Stock and Poultry Protection Act</i>	30. <i>Provincial Parks Act</i>
12. <i>Environmental Protection Act</i>	31. <i>Public Utilities Act</i>
13. <i>Farm Products Payments Act</i>	32. <i>The Railways Act</i>
14. <i>Fur Farms Act</i>	33. <i>Riding Horse Establishments Act</i>
15. <i>Game and Fish Act</i>	34. <i>Statute Labour Act</i>
16. <i>Live Stock and Live Stock Products Act</i>	35. <i>Surveys Act</i>
17. <i>Live Stock Branding Act</i>	36. <i>Trees Act</i>
18. <i>Live Stock Community Sales Act</i>	
19. <i>Live Stock Medicines Act</i>	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Agricultural Associations Act*, being chapter 8 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

1a. The Minister may designate an officer of the Ministry of Agriculture and Food as the Superintendent of Agricultural Associations.

Designation
of Superin-
tendent

2.—(1) Subsection 6 (1) of the *Algonquin Forestry Authority Act*, being chapter 18 of the Revised Statutes of Ontario, 1980, is amended by striking out “Lieutenant Governor in Council” in the second line and inserting in lieu thereof “Minister”.

(2) Clause 9 (4) (c) of the said Act is amended by striking out “and ensuring a reasonable rate of return on the capital invested in the Authority” in the third, fourth and fifth lines.

(3) Section 12 of the said Act is amended by adding thereto the following subsection:

Power to
borrow

(3) Subject to the approval of the Lieutenant Governor in Council, the Authority may from time to time borrow such sums of money as the Authority considers necessary for any of its purposes, from a chartered bank or trust company, by way of bank overdraft or loan or in any other manner as the Board may determine.

(4) Subsection 13 (2) of the said Act is repealed and the following substituted therefor:

Investment
of surplus
moneys

(2) The Authority may temporarily invest any surplus moneys not immediately required for its objects in term deposits with a chartered bank or trust company or in securities issued by or guaranteed as to principal and interest by the Province of Ontario, another province of Canada, or Canada.

3.—(1) Clause 1 (b) of the *Animals for Research Act*, being chapter 22 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(b) “Director” means the Director appointed under this Act.

(2) The said Act is amended by adding thereto the following section:

Appointment
of Director

1a. The Minister may appoint a Director for the purposes of this Act.

4.—(1) Clause 1 (c) of the *Artificial Insemination of Live Stock Act*, being chapter 29 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Section 1 of the said Act is amended by adding thereto the following clause:

(da) “Director” means the Director appointed under this Act.

(3) Section 2 of the said Act is repealed and the following substituted therefor:

2. The Minister may appoint a Director who shall be responsible to the Minister for the administration and enforcement of this Act.

Appointment
of Director

(4) The said Act is further amended by striking out “Commissioner” wherever it occurs and inserting in lieu thereof in each instance “Director”.

5.—(1) Clause 1 (e) of the *Beef Cattle Marketing Act*, being chapter 41 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(e) “Director” means the Director appointed under this Act.

(2) The said Act is amended by adding thereto the following section:

9a. The Minister may appoint a Director for the purposes of this Act.

Appointment
of Director

(3) The said Act is further amended by striking out “Commissioner” wherever it occurs and inserting in lieu thereof in each instance “Director”.

6. Section 3 of the *Bridges Act*, being chapter 49 of the Revised Statutes of Ontario, 1980, is repealed.

7.—(1) Clause 1 (c) of the *Brucellosis Act*, being chapter 50 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(c) “Director” means the Director appointed under this Act.

(2) Subsection 3 (1) of the said Act is repealed and the following substituted therefor:

(1) The Minister may appoint a Director for the purposes of this Act and may appoint any veterinarian registered under the *Veterinarians Act* who makes application for appointment in the form prescribed in the regulations.

Appointment
of Director
and
veterinarians
R.S.O. 1980,
c. 522

8. Subsection 24 (4) of the *Consolidated Hearings Act, 1981*, being chapter 20, is amended by striking out “(1)” in the first line and inserting in lieu thereof “(2)”.

9.—(1) Subsection 2 (7) of the *Crown Timber Act*, being chapter 109 of the Revised Statutes of Ontario, 1980, is amended by striking out “160 acres” in the fourth line and inserting in lieu thereof “65 hectares”.

(2) Subsection 7 (2) of the said Act is repealed and the following substituted therefor:

Area charge (2) Subject to subsections (3) and (4), every licensee shall pay annually to the Crown in respect of the licence an area charge based on the productive lands within the licensed area.

Exemption (3) The holder of a licence granted under subsection 2 (7) or under subsection 5 (1) or (3) is exempt from the payment of an area charge in respect of the licensed area.

Idem (4) A licensee is exempt from the payment of an area charge in respect of any part of the licensed area that is included within an existing licensed area of an earlier licence.

(3) Subsection 27 (1) (b) of the said Act is amended by striking out “acreages of the areas” in the second and third lines and in the sixth line and inserting in lieu thereof in each instance “area in hectares of the lands”.

(4) Subsection 27 (2) of the said Act is repealed and the following substituted therefor:

Approval of annual plan (2) The Minister may approve an annual plan or may approve it with such alterations as he considers proper, provided that the annual plan and any alterations are not inconsistent with an approved management plan or operating plan.

(5) Section 41 of the said Act is repealed and the following substituted therefor:

Manual of scaling instructions authorized **41.—(1)** The Minister may authorize a manual of scaling instructions prescribing the method or methods of measuring Crown timber.

Minister may specify scaling method (2) Where a manual of scaling instructions prescribes more than one method of measuring Crown timber, the Minister may specify such method or methods prescribed in the manual as he considers advisable for the measurement of any Crown timber.

(6) Subsection 42 (1) of the said Act is repealed and the following substituted therefor:

(1) It is the duty of every licensed scaler or holder of a special permit to measure in accordance with the authorized manual of scaling instructions and any method or methods specified under subsection 41 (2) all Crown timber that he is employed to measure, making only such deductions as are authorized by the manual, and to enter in a book of record, for the purpose of a return to the Minister, the contents of the timber measured by him and the number of logs rejected as culls.

Duties of
scalers

(7) Section 44 of the said Act is repealed.

(8) Clauses 48 (1) (a), (b), (c) and (d) of the said Act are repealed and the following substituted therefor:

- (a) commences cutting operations without the approval of the Minister under section 14, or carries on cutting operations beyond the limits of the area approved by the Minister under section 14, is liable to a penalty of an amount not less than the amount of the stumpage charges on the timber so cut and not more than five times the amount of such charges, but in no case shall the penalty be less than \$100;
- (b) contravenes subsection 15 (1) or any order or direction made under section 28 or any regulation made under clause 53 (h) is liable to a penalty of an amount not less than the amount of the stumpage charges on the timber in respect of which such contravention occurred and not more than five times the amount of such charges, but in no case shall the penalty be less than \$100;
- (c) except under a licence, cuts or employs or induces or assists any other person to cut Crown timber or removes or employs or induces or assists any other person to remove Crown timber is liable to a penalty of an amount not less than the amount of the stumpage charges on the timber in respect of which such contravention occurred and not more than five times the amount of such charges, but in no case shall the penalty be less than \$100;
- (d) contravenes section 43 is liable to a penalty of an amount not less than twice the amount of the stumpage charges on the timber in respect of which such contravention occurred and not more than five times the amount of such charges, but in no case shall the penalty be less than \$100.

(9) Clause 53 (f) of the said Act is repealed and the following substituted therefor:

- (f) fixing the fees to be paid on any transfer, assignment, pledge or charge, whether as security or otherwise, of any licence or mill licence or any agreement entered into under section 4 or subsection 27 (4).

10.—(1) Clause 1 (e) of the *Dead Animal Disposal Act*, being chapter 112 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (e) “Director” means the Director appointed under this Act.

(2) The said Act is amended by adding thereto the following section:

Appointment
of Director

4a. The Minister may appoint a Director for the purposes of this Act.

11.—(1) Section 1 of the *Dog Licensing and Live Stock and Poultry Protection Act*, being chapter 123 of the Revised Statutes of Ontario, 1980, is amended by relettering clause (a) as clause (aa) and by adding thereto the following clause:

- (a) “Director” means the Director appointed under this Act.

(2) Clause 8 (b) of the said Act is repealed.

(3) The said Act is amended by adding thereto the following section:

Appointment
of Director

8a. The Minister may appoint a Director for the purposes of this Part and Part III.

(4) The said Act is further amended by striking out “Commissioner” wherever it occurs and inserting in lieu thereof in each instance “Director”.

12.—(1) Subsection 136 (1) of the *Environmental Protection Act*, being chapter 141 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1983, chapter 52, section 23, is further amended by adding thereto the following clauses:

- (o) requiring and regulating the storage, treatment and disposal of sewage in boats and ships and the equip-

ment therefor, and prohibiting the use and installation of equipment for the storage, treatment or disposal of sewage in boats and ships unless the equipment and installation thereof conform to the regulations, and providing for and requiring the approval of the Director for any such equipment, and prohibiting and regulating the discharge of sewage from such boats and ships;

- (p) regulating and controlling, for the purpose of preventing or reducing the pollution of any water or places located on or adjacent to any water where moorings are provided for boats or ships or where any services are provided for boats or ships or the occupants thereof, and regulating and governing persons providing such moorings or services;
- (q) defining sewage for the purposes of regulations made under clauses (o) and (p).

(2) Clauses 136 (3) (a), (b) and (c) of the said Act are repealed.

(3) Subsection 136 (7) of the said Act is amended,

- (a) in clause (a), by striking out “89 (1)” in the second line and inserting in lieu thereof “88 (1)”;
- (b) in clause (b), by striking out “90 (1)” in the third line and inserting in lieu thereof “89 (1)”;
- (c) in clause (c), by striking out “90 (1)” in the second line and inserting in lieu thereof “89 (1)”;
- (d) in clause (d), by striking out “80 (2)” in the second line and inserting in lieu thereof “79 (2)”.

13. Subsection 2 (2) of the *Farm Products Payments Act*, being chapter 159 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(2) The Lieutenant Governor in Council may appoint the members of a board, one of whom may be designated as chairman and one as vice-chairman, and may fix the remuneration of members who are not employed in the public service of Ontario.

Appointments
and
remuneration

14.—(1) Clause 1 (a) of the *Fur Farms Act*, being chapter 181 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (a) "Director" means the Director appointed under this Act.

(2) The said Act is amended by adding thereto the following section:

Appointment
of Director

2a. The Minister may appoint a Director for the purposes of this Act.

15.—(1) Section 1 of the *Game and Fish Act*, being chapter 182 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following paragraphs:

- 4a. "culture", when used with respect to fish, means the husbandry of fish including any activity that promotes or causes the growth or reproduction of fish but does not include the production of fish for the aquarium trade;

.

- 9a. "fish" includes crustaceans, any part of a fish and the eggs of fish.

(2) Paragraph 10 of section 1 of the said Act is amended by striking out "propagated" in the eighth line and inserting in lieu thereof "cultured".

(3) The said section 1 is further amended by adding thereto the following paragraph:

- 24a. "Ontario waters" means any natural or man-made body of water in Ontario.

(4) Subsection 47 (1) of the said Act is amended by striking out "polar bear" in the fourth line.

(5) Subsection 48 (1) of the said Act is amended by striking out "polar bear" in the first line.

(6) Section 72 of the said Act is repealed and the following substituted therefor:

No traffic
of fish

72.—(1) No person shall sell, offer for sale, purchase or barter, or be concerned in the sale, purchase or barter, of fish taken from Ontario waters in any manner unless he is the holder of,

- (a) a commercial fishing licence;

- (b) a bait fish dealer's licence;
- (c) a licence to culture and sell fish;
- (d) a licence to own and operate a fishing preserve; or
- (e) a commercial bait fish licence,

and, in the case of a holder of a commercial fishing licence, pays the levy prescribed in the regulations.

(2) Except where permitted under the regulations or the Ontario Fishery Regulations, no person shall possess, culture or sell fish unless he is the holder of a licence to culture and sell American eel, Atlantic salmon, brook trout, brown trout, bullhead catfish, channel catfish, lake sturgeon, lake trout, lake whitefish, largemouth bass, rainbow trout, smallmouth bass, splake, yellow perch, yellow pickerel (walleye), suckers (Catostomidae) or minnows (Cyprinidae), except minnows that are carp or goldfish. Idem

(3) No person shall buy, sell or possess a fish taken from Ontario waters during the closed season for that fish. Idem

(4) Subsection (1) does not apply to a person possessing, bartering, selling or purchasing fish where the person obtains the fish from a person who is the holder of a licence referred to in clause (1) (a), (c), (d) or (e) and the barter or sale is supported by a bill of sale or other written document or to a person who obtains fish for his own use from a person who is the holder of a bait fish dealer's licence. Exception

(5) Subsection (3) does not apply to the holder of a licence to culture and sell fish or a licence to own and operate a fishing preserve or to a person who lawfully obtains fish from a person who is the holder of a licence to culture and sell fish or from a fishing preserve. Idem

(7) Subsection 89 (1) of the said Act is repealed and the following substituted therefor:

(1) Upon the conviction of any person or his agent of an offence against this Act or the regulations, the *Fisheries Act* (Canada) or the Ontario Fishery Regulations, any licence, except a licence to angle or to hunt, other than a licence to hunt or trap fur-bearing animals, that is held by the licensee at the time of the conviction and that is related to the offence, shall be deemed to be cancelled without further action or notice, but the Minister may revive the licence upon such terms and conditions as he considers proper. Cancellation and revival of licences after conviction
R.S.C. 1970, c. F-14

(8) Paragraph 1 of section 92 of the said Act is amended by inserting after “renewal” in the third line “sale”.

16.—(1) Clause 1 (b) of the *Live Stock and Live Stock Products Act*, being chapter 245 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(b) “Director” means the Director appointed under this Act.

(2) The said Act is amended by adding thereto the following section:

Appointment
of Director

1a. The Minister may appoint a Director for the purposes of this Act.

(3) The said Act is further amended by striking out “Commissioner” wherever it occurs and inserting in lieu thereof in each instance “Director”.

17. Section 4 of the *Live Stock Branding Act*, being chapter 246 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Appointment
of Director

4.—(1) The Minister may appoint a Director for the purposes of this Act.

Record
of all
brands

(2) The Director appointed for the purposes of this Act shall be the recorder of brands and shall receive applications, keep a record of all brands allotted and make transfers and cancellations in accordance with this Act.

18.—(1) Clause 1 (c) of the *Live Stock Community Sales Act*, being chapter 247 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(c) “Director” means the Director appointed under this Act.

(2) The said Act is amended by adding thereto the following section:

Appointment
of Director

2a. The Minister may appoint a Director for the purposes of this Act.

19.—(1) Clause 1 (c) of the *Live Stock Medicines Act*, being chapter 248 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(c) "Director" means the Director appointed under this Act.

(2) Clause 2 (1) (a) of the said Act is repealed and the following substituted therefor:

(a) one member representing the Ministry of Agriculture and Food.

(3) Subsection 3 (1) of the said Act is repealed and the following substituted therefor:

(1) The Minister may appoint a Director for the purposes of this Act and may appoint a chief inspector who shall be a veterinarian and such other inspectors as he considers necessary to carry out and enforce this Act and the regulations.

Appointment
of Director
and
inspectors

20. Section 5 of the *Local Roads Boards Act*, being chapter 251 of the Revised Statutes of Ontario, 1980, is amended by adding "and" at the end of clause (a) and by striking out clause (b).

21.—(1) Clause 1 (c) of the *Meat Inspection Act (Ontario)*, being chapter 260 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(c) "Director" means the Director appointed under this Act.

(2) Subsection 11 (1) of the said Act is repealed and the following substituted therefor:

(1) The Minister may appoint a Director for the purposes of this Act and may appoint a chief inspector and such other inspectors as he considers necessary to carry out and enforce this Act and the regulations.

Appointment
of Director
and
inspectors

22. The *Ministry of Transportation and Communications Act*, being chapter 289 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

9.—(1) No action or other proceeding for damages shall be instituted against the Deputy Minister or any officer or employee of the Ministry or anyone acting under the authority of the Deputy Minister for any act done in good faith in the execution or intended execution of a duty or for any alleged neglect or default in the execution in good faith of a duty.

Protection
from
personal
liability

(2) Subsection (1) does not by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act* relieve the

Crown
liability
R.S.O. 1980,
c. 393

Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection (1) had not been enacted.

Lien
continued,
when
payable,
etc.

23.—(1) Notwithstanding the repeal of *The Municipal and School Tax Credit Assistance Act*, being chapter 285 of the Revised Statutes of Ontario, 1970,

- (a) the amount of a credit or refund allowed under that Act shall continue to be a lien in favour of the Treasurer of Ontario on the real property in respect of which the credit or refund was allowed and the lien has priority,
 - (i) over any encumbrance upon the property arising before or after the date of registration of the notice mentioned in subsection 2 (5) of that Act if the encumbrancer is a relative by blood or marriage of the person to whom the credit or refund was allowed, or
 - (ii) over any other encumbrance upon the property arising after the date of registration of the notice mentioned in subsection 2 (5) of that Act; and
- (b) the amount of a lien continued under clause (a) becomes due and shall be paid to the Treasurer of Ontario upon any change in ownership of the real property except,
 - (i) where the new owner is the husband, wife, brother or sister of the person to whom a credit or refund was allowed and is a person who would be entitled to a credit or refund under a by-law passed under section 2 of that Act if that Act were in force, or
 - (ii) by way of a mortgage or charge other than a sale or foreclosure under the mortgage or charge.

Discharge
of lien

(2) Upon payment in full to the Treasurer of Ontario of the amount of a lien continued under clause (1) (a), the Minister of Municipal Affairs and Housing shall issue a certificate showing that the payment has been made and discharging the lien as against the real property.

(3) Where a lien on real property has been claimed by mistake under *The Municipal and School Tax Credit Assistance Act*, the Minister of Municipal Affairs and Housing shall issue a certificate discharging the lien as against the real property.

Idem
R.S.O. 1970,
c. 285

(4) Where a lien on real property has been claimed under *The Municipal and School Tax Credit Assistance Act*, the Minister of Municipal Affairs and Housing, by certificate, may discharge the lien as against a portion of the real property where, in the opinion of the Minister, the remainder of the real property provides sufficient security for the enforcement of the lien.

Partial
discharge

(5) A certificate issued under subsection (2), (3) or (4) may be registered in the proper land registry office.

Registration

(6) Every certificate of discharge or partial discharge purporting to discharge a lien claimed under *The Municipal and School Tax Credit Assistance Act* that was executed before the day this Act comes into force by an officer or employee of the Department of Municipal Affairs, the Ministry of Treasury, Economics and Intergovernmental Affairs, the Ministry of Intergovernmental Affairs or the Ministry of Municipal Affairs and Housing is hereby confirmed and when registered against the title to the real property shall be deemed to have discharged the lien with respect to the real property described in the certificate of discharge or partial discharge.

Confirmation
of certificates
of discharge
R.S.O. 1970,
c. 285

(7) Every document purporting to postpone a lien claimed under *The Municipal and School Tax Credit Assistance Act* that was signed by the Treasurer of Ontario before the day this Act comes into force is hereby confirmed and when registered against the title to the real property shall be deemed to have postponed the lien in favour of the claim specified in the document with respect to the real property described therein.

Confirmation
of
postponements

24.—(1) Section 4 of the *Ontario Energy Board Act*, being chapter 332 of the Revised Statutes of Ontario, 1980, is amended by inserting after “employees” in the second line “appointed under the *Public Service Act*”.

(2) The said section 4 is further amended by adding thereto the following subsection:

(2) The Board may employ persons other than those employed under subsection (1) on a temporary or short-term basis and may establish the terms and conditions of employment of such persons.

Temporary
employees

(3) Subsection 34 (1) of the said Act is repealed and the following substituted therefor:

Offences

(1) Every person who contravenes any provision of this Act or the regulations or any order of the Board is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 for each day on which the offence occurs or continues.

(4) Section 50 of the said Act is amended by striking out “or by the Land Compensation Board continued under section 28 of that Act” in the fifth, sixth and seventh lines.

25. Section 43 of the *Ontario Northland Transportation Commission Act*, being chapter 351 of the Revised Statutes of Ontario, 1980, is repealed.

26. Subsection 19 (2) of *The Ontario Pensioners Property Tax Assistance Act, 1980*, being chapter 18, is repealed.

27.—(1) Section 7 of the *Ontario Transportation Development Corporation Act*, being chapter 358 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsections 14 (1) and (2) of the said Act are repealed.

28.—(1) Clause 1 (1) (a) of the *Parks Assistance Act*, being chapter 367 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(a) “approved park” means a park, beach, natural area, trail or other natural recreational area approved for assistance under this Act.

(2) Section 3 of the said Act is repealed and the following substituted therefor:

Grants
authorized

3.—(1) The Minister may make grants to any municipality out of moneys appropriated therefor by the Legislature to assist in,

(a) the acquisition of land for an approved park;

(b) the development of an approved park; and

(c) the conversion of a provincial or public park into an approved park.

Limitation.
total grant

(2) The assistance granted under subsection (1) in respect of any one park shall not exceed \$150,000 or 50 per cent of the total cost of acquiring the land and developing the park or of converting a provincial or public park into an approved park, whichever is less.

29.—(1) Clause 1 (b) of the *Provincial Auctioneers Act*, being chapter 396 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(b) “Director” means the Director appointed under this Act.

(2) The said Act is amended by adding thereto the following section:

1a. The Minister may appoint a Director for the purposes of this Act. Appointment of Director

(3) The said Act is further amended by striking out “Commissioner” wherever it occurs and inserting in lieu thereof in each instance “Director”.

30.—(1) Section 13 of the *Provincial Parks Act*, being chapter 401 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

13. In a provincial park, the district manager, superintendent and assistant superintendent and a park warden and conservation officer have all the power and authority of a member of the Ontario Provincial Police Force and of a peace officer as defined in the *Criminal Code* (Canada). Powers of superintendent, etc.

R.S.C. 1970,
c. C-34

(2) Section 16 of the said Act is repealed and the following substituted therefor:

16.—(1) Every road, trail and portage in a provincial park that is not under the control of the Ministry of Transportation and Communications is closed to travel unless the district manager or superintendent designates it as open. Roads, etc., closed

(2) The district manager or superintendent may grant a permit for travel on a closed road, trail or portage in a provincial park, subject to such terms and conditions as he considers advisable. Permit

(3) No person shall travel on a closed road, trail or portage in a provincial park unless he holds a permit granted under subsection (2). Prohibition

(3) Section 18 of the said Act is repealed and the following substituted therefor:

18. No person shall keep for sale or sell liquor in a provincial park except in a restaurant or resort under the authority of a licence or permit issued under the *Liquor Licence Act*. Sale of liquor

R.S.O. 1980,
c. 244

(4) Subsection 21 (1) of the said Act is amended by adding thereto the following clause:

(qa) prohibiting or regulating and controlling the parking of vehicles and the placement of equipment in provincial parks.

(5) Subsection 22 (1) of the said Act is amended by striking out “\$500” in the third line and inserting in lieu thereof “\$3,000”.

31. Section 43 of the *Public Utilities Act*, being chapter 423 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsections:

Expenses

(1a) A commission may provide by resolution for the payment in whole or in part of such expenses of its members as are actually incurred as a result of their acting in their capacity as members and as are authorized by the resolution.

Maximum
amounts

(1b) A resolution passed under subsection (1a) may set maximum amounts or rates that may be paid in respect of any expense for which payment is authorized by the resolution.

Expense
allowances

(1c) A resolution passed under subsection (1a) may provide for the payment of a specified amount or of amounts calculated according to a specified rate in lieu of the amount of actual expenses incurred in respect of items of expenditure specified in the resolution where the specified amounts or rates, in the opinion of the commission, reasonably reflect the actual expenses that would be incurred.

32.—(1) Subsection 16 (5) of *The Railways Act*, being chapter 331 of the Revised Statutes of Ontario, 1950, is repealed.

(2) Section 266 of the said Act is repealed.

(3) Subsection 270 (6) of the said Act is repealed.

33.—(1) Clause 1 (b) of the *Riding Horse Establishments Act*, being chapter 455 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(b) “Director” means the Director appointed under this Act.

(2) The said Act is amended by adding thereto the following section:

1a. The Minister may appoint a Director for the purposes of this Act. Appointment
of Director

34.—(1) Subsection 16 (2) of the *Statute Labour Act*, being chapter 482 of the Revised Statutes of Ontario, 1980, is amended by adding “and” at the end of clause (a) and by striking out clause (b).

(2) Subsection 16 (3) of the said Act is repealed.

(3) Section 17 of the said Act is amended by striking out “a British subject and otherwise” in the second line.

(4) Subsection 19 (1) of the said Act is amended by striking out “that you are a British subject” in the eleventh and twelfth lines.

(5) Subsection 19 (2) of the said Act is repealed.

35.—(1) Subsection 44 (1) of the *Surveys Act*, being chapter 493 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following paragraph:

7. If a section boundary is obliterated in a section partly or wholly broken by a lake or river and the boundary was not surveyed across the lake or river, he shall re-establish it on the astronomic course shown on the original plan and field notes from the nearest ascertainable point on the section boundary.

(2) Section 46 of the said Act is repealed and the following substituted therefor:

46. A surveyor in establishing the interior boundaries of quarter sections shown on the original plan and field notes but not surveyed in the original survey of a sectional township surveyed into sections and quarter sections with or without road allowances shall proceed as follows:

Establish-
ment of
interior
boundaries

1. Where quarter section corners in a section were defined in the original survey, he shall join with straight lines the opposite quarter section corners on the boundaries of the section.
2. Where a section is partly or wholly broken on one side by a lake or river and no post was planted in the original survey on the banks of the lake or river to define the quarter section corner and the section boundaries were not surveyed across the lake or river, he shall establish the quarter section boundaries

by a straight line drawn on the mean astronomic course shown on the original plan and field notes for the section boundaries of the adjoining quarter sections from the quarter section corner opposite the broken side.

3. Where a section is partly or wholly broken on more than one side by a lake or river and no posts were planted in the original survey on the banks of the lake or river to define the quarter section corner and the section boundaries were not surveyed across the lake or river, he shall establish the interior quarter section boundaries on the astronomic course shown on the original plan and field notes for the exterior section boundary opposite the interior quarter section boundary being established but, where the quarter section corner is referenced by a quarter section corner on the opposite side of a road allowance established in the original survey, he shall establish the interior quarter section boundaries on the astronomic course shown on the original plan and field notes for the exterior section boundary opposite the interior quarter section boundary being established.

36.—(1) Clause 1 (b) of the *Trees Act*, being chapter 510 of the Revised Statutes of Ontario, 1980, is amended by striking out “four and one-half feet” in the second line and inserting in lieu thereof “1.3 metres”.

(2) Clause 1 (e) of the said Act is repealed and the following substituted therefor:

- (e) “woodlot” means an area having not less than,
 - (i) 1,000 trees per hectare of any size,
 - (ii) 750 trees per hectare measuring more than five centimetres dbh,
 - (iii) 500 trees per hectare measuring more than twelve centimetres dbh, or
 - (iv) 250 trees per hectare measuring more than twenty centimetres dbh.

(3) Clause 5 (1) (e) of the said Act is amended by striking out “two acres” in the first and second lines and inserting in lieu thereof “one hectare”.

(4) Subsection 13 (2) of the said Act is repealed and the following substituted therefor:

(2) No such agreement shall provide for the reforestation of less than two hectares of land for every forty hectares belonging to the same owner. Acreage

37.—(1) This Act, except subsection 9 (2) and section 35, comes into force on the day it receives Royal Assent. Commence-
ment

(2) Subsection 9 (2) shall be deemed to have come into force on the 1st day of April, 1984. Idem

(3) Section 35 comes into force on the 1st day of January, 1985. Idem

38. The short title of this Act is the *Resources Development Statute Law Amendment Act, 1984.* Short title

Bill 107

An Act to amend the Highway Traffic Act

The Hon. R. McMurtry
Attorney General

1st Reading June 18th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

Section 29 of the Act now reads as follows:

29.—(1) *In this section, “justice” means a justice of the peace or a provincial judge.*

(2) *Where a justice is satisfied that a person is in default of payment of all or any part of a fine imposed upon conviction for an offence against this Act, the Public Vehicles Act, the Public Commercial Vehicles Act or the regulations made under any of them, he may, in addition to any other order which may have been made under the Provincial Offences Act, issue an order to the Registrar directing the suspension of the driver's licence of such person and the Registrar shall suspend the licence.*

(3) *A driver's licence that is suspended under this section shall remain suspended and shall not be renewed, nor shall a new licence be issued to the person whose licence has been suspended, until payment in full is made of the amount in respect of which the order directing suspension was issued and the licence is reinstated pursuant to subsection (4).*

(4) *Upon payment in full of the amount in respect of which an order directing suspension was issued, a justice of the court from which the order was issued shall issue an order to the Registrar directing the reinstatement of the driver's licence and the Registrar shall reinstate the licence.*

(5) *The Lieutenant Governor in Council may make regulations prescribing forms and procedures and respecting any matter considered necessary or advisable to carry out effectively the intent and purpose of this section.*

The amendment is intended to modernize licence suspension and reinstatement procedures and facilitate the collection of fines, administrative fees and other charges.

Bill 107

1984

An Act to amend the Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 29 of the *Highway Traffic Act*, being chapter 198 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

29.—(1) Where a person is in default of payment of a fine imposed upon conviction for an offence against this Act, the *Public Vehicles Act*, the *Public Commercial Vehicles Act* or the regulations made under any of them, an order may be made under subsection 70 (2) of the *Provincial Offences Act* directing that,

Suspension
for default in
payment of
fine

R.S.O. 1980,
cc. 425, 407,
400

(a) the person's driver's licence be suspended; and

(b) no driver's licence be issued to the person,

until the fine is paid.

(2) The Registrar shall,

Duty of
Registrar

(a) on being informed of an outstanding order referred to in subsection (1), suspend the person's driver's licence, if it is not already suspended under another order referred to in subsection (1); and

(b) on being informed that the fine and any applicable prescribed administrative fee for the reinstatement of the licence are paid, reinstate the licence, unless the Registrar has been informed that,

(i) there is another outstanding order referred to in subsection (1) directing that the licence be suspended,

(ii) the licence is suspended under any other order or under another statute, or

- (iii) an applicable prescribed administrative fee for handling a dishonoured cheque, or interest or a penalty charged to the person under subsection 5 (2), is outstanding.

Regulations

(3) The Lieutenant Governor in Council may make regulations prescribing forms and procedures and respecting any matter considered necessary or advisable to carry out effectively the intent and purpose of this section.

Commence-
ment

2. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

3. The short title of this Act is the *Highway Traffic Amendment Act, 1984*.

Bill 108

An Act to amend the Provincial Offences Act

The Hon. R. McMurtry
Attorney General

1st Reading June 18th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill requires the payment of administrative fees, as prescribed by the regulations, where fines go into default.

Bill 108**1984****An Act to amend the Provincial Offences Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Provincial Offences Act*, being chapter 400 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

70a.—(1) Where the payment of a fine is in default and the time for payment is not extended or further extended under subsection 67 (6), the defendant shall pay the administrative fee prescribed by the regulations. Fee where fine in default

(2) For the purpose of making and enforcing payment, a fee payable under this section shall be deemed to be part of the fine that is in default. Fee collectable as a fine

2. Section 91 of the said Act is amended by adding thereto the following clause:

(g) prescribing administrative fees for the purposes of subsection 70a (1) for the late payment of fines or classes of fines, and prescribing the classes.

3. This Act comes into force on the day it receives Royal Assent. Commencement

4. The short title of this Act is the *Provincial Offences Amendment Act, 1984*. Short title

Bill 109

An Act to amend the Securities Act

The Hon. R. G. Elgie

Minister of Consumer and Commercial Relations

1st Reading June 18th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to extend the application of the Act to Her Majesty in right of Canada and Ontario and the other provinces and territories of Canada and to the agents and servants thereof.

Bill 109

1984

An Act to amend the Securities Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Securities Act*, being chapter 466 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

138a.—(1) Subject to subsection (2), this Act applies to, Application
to Her
Majesty

- (a) Her Majesty in right of Canada;
- (b) Her Majesty in right of Ontario; and
- (c) Her Majesty in right of any other province or territory of Canada,

and agents and servants thereof.

(2) Subsections 11 (4) and (6) and sections 16, 17, 59, 118, 126, 127, 129, 131, 132 and 135 do not apply to, Exceptions

- (a) Her Majesty in right of Canada;
- (b) Her Majesty in right of Ontario;
- (c) Her Majesty in right of any other province or territory of Canada; or
- (d) an agent or servant of Her Majesty, as referred to in clause (a), (b) or (c), where the matter arises from the performance of a duty or the exercise of a power as an agent or servant thereof or from any neglect or default in the performance or exercise of such duty or power.

Commence-
ment

2. This Act shall be deemed to have come into force on the 18th day of June, 1984.

Short title

3. The short title of this Act is the *Securities Amendment Act, 1984*.

Bill 109

(Chapter 59
Statutes of Ontario, 1984)

An Act to amend the Securities Act

The Hon. R. G. Elgie
Minister of Consumer and Commercial Relations

<i>1st Reading</i>	June 18th, 1984
<i>2nd Reading</i>	November 27th, 1984
<i>3rd Reading</i>	December 11th, 1984
<i>Royal Assent</i>	December 14th, 1984

Bill 109

1984

An Act to amend the Securities Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Securities Act*, being chapter 466 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

138a.—(1) Subject to subsection (2), this Act applies to, Application
to Her
Majesty

- (a) Her Majesty in right of Canada;
- (b) Her Majesty in right of Ontario; and
- (c) Her Majesty in right of any other province or territory of Canada,

and agents and servants thereof.

(2) Subsections 11 (4) and (6) and sections 16, 17, 59, 118, Exceptions
126, 127, 129, 131, 132 and 135 do not apply to,

- (a) Her Majesty in right of Canada;
- (b) Her Majesty in right of Ontario;
- (c) Her Majesty in right of any other province or territory of Canada; or
- (d) an agent or servant of Her Majesty, as referred to in clause (a), (b) or (c), where the matter arises from the performance of a duty or the exercise of a power as an agent or servant thereof or from any neglect or default in the performance or exercise of such duty or power.

Commence-
ment

2. This Act shall be deemed to have come into force on the 18th day of June, 1984.

Short title

3. The short title of this Act is the *Securities Amendment Act, 1984*.

220

4TH SESSION, 32ND LEGISLATURE, ONTARIO
33 ELIZABETH II, 1984

4^e SESSION, 32^e LÉGISLATURE, ONTARIO
33 ELIZABETH II, 1984

Bill 110

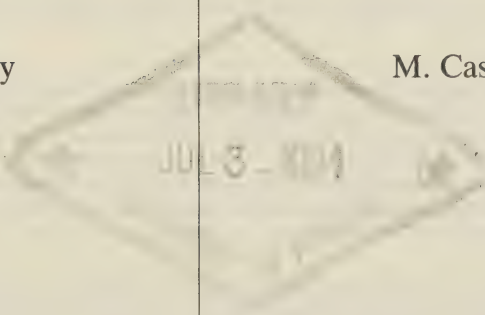
Projet de loi 110

**An Act respecting
Technological Change
in the Workplace**

**Loi concernant les
changements technologiques
au lieu de travail**

Mr. Cassidy

M. Cassidy



1st Reading June 18th, 1984
2nd Reading
3rd Reading
Royal Assent

1^{re} lecture 18 juin 1984
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTES

SECTION 1. Self-explanatory.

SECTION 2. The Act binds the Crown.

SECTION 3. Trade unions and employers may opt out of the Act only with the consent of the Ontario Labour Relations Board.

SECTION 4. Employees have the right to require the establishment of a joint technological change committee.

SECTION 5. The employer is required to report to the committee regularly, to notify the committee as soon as a decision to implement a technological change is made and to consult with the committee on alternative means of implementation of the change.

SECTION 6. Umbrella committees with a co-ordinating function may be established where employees work in more than one workplace, department or division of the employer.

SECTION 7. When a decision to implement a technological change is made, the joint technological change committee is responsible for developing a plan to notify employees, introduce the change in a manner that will minimize disruption and provide various compensating benefits for displaced employees. The employer is required to work with the committee and give it full access to staff, information and records. An umbrella committee may prepare a joint plan for several workplaces, departments or divisions where the employee representatives on the relevant committees require this.

SECTION 8. The minimum notice period before a technological change may be introduced is 180 days.

SECTION 9. Where the Ontario Labour Relations Board is satisfied that an employer has failed to report to the committee as required, failed to notify it of a proposed technological change, implemented a change before the minimum notice period has expired or substantially failed to implement a plan developed by a committee, the Board may order that implementation of the change be delayed for up to one year. The Board may also delay implementation where the committee has not produced a plan within 120 days of being notified of the change.

SECTION 10. A collective agreement may be reopened for bargaining over technological change if the trade union requests it. In that event the usual collective bargaining provisions, including the right to strike, would apply.

SECTION 11. Employees displaced by technological change are entitled to a week's severance pay for every year of employment with the employer.

SECTION 12. Dismissal, discipline or intimidation of employees because they seek to enforce this Act are prohibited.

SECTION 13. Contraventions of Board orders under section 9 and contraventions of section 12 are offences. The maximum fine is \$5,000 on a first conviction (\$10,000 for a corporation) and \$10,000 on subsequent convictions (\$20,000 for corporations). Each day that an employer fails to comply with a Board order under section 9 constitutes a separate offence.

NOTES EXPLICATIVES

ARTICLE 1 Cet article se passe d'explications.

ARTICLE 2 La loi lie la Couronne.

ARTICLE 3 Les syndicats et les employeurs peuvent choisir de ne pas être régis par la loi, seulement avec le consentement de la Commission des relations de travail de l'Ontario.

ARTICLE 4 Les employés ont le droit d'exiger qu'un comité paritaire des changements technologiques soit créé.

ARTICLE 5 L'employeur est tenu de présenter régulièrement des rapports au comité. Il est également tenu d'aviser le comité dès qu'une décision de mettre en place un changement technologique a été prise et d'entretenir avec lui des consultations sur d'autres façons de mettre en place le changement proposé.

ARTICLE 6 Des comités de coordination peuvent être créés si des employés travaillent dans plus d'un lieu de travail, plus d'une section ou plus d'une division.

ARTICLE 7 En cas de décision de mettre en place un changement technologique, le comité paritaire des changements technologiques est chargé d'élaborer un projet en vue d'en informer les employés, d'introduire le changement d'une façon qui minimisera les perturbations et d'offrir des avantages compensateurs aux employés déplacés. L'employeur est tenu de travailler avec le comité et de lui donner toutes possibilités de consulter son personnel, ses renseignements et ses dossiers. Un comité de coordination peut élaborer un projet commun à l'intention de plusieurs lieux de travail, sections ou divisions si les représentants des employés qui font partie des comités pertinents le demandent.

ARTICLE 8 Un préavis d'au moins cent quatre-vingts jours doit être donné avant l'introduction d'un changement technologique.

ARTICLE 9 Si la Commission des relations de travail de l'Ontario est convaincue que l'employeur n'a pas présenté les rapports prévus au comité, ne l'a pas informé du projet d'introduire un changement technologique, a mis en place un changement technologique avant l'expiration de la période minimale ou n'a pas, pour une grande part, mis en place le projet proposé par le comité, elle peut ordonner que la mise en place du changement soit différée pendant une année au plus. La Commission peut également retarder la mise en place d'un changement si le comité n'a pas produit de projet au cours des cent vingt jours qui suivent la date à laquelle il a été avisé du changement.

ARTICLE 10 Une convention collective peut être rouverte à des fins de négociation sur le changement technologique si le syndicat le demande. Dans ce cas, les conditions habituelles relatives à la négociation collective, y compris le droit de grève, s'applique.

ARTICLE 11 Les employés déplacés en raison d'un changement technologique ont droit à une indemnité de licenciement qui équivaut à une semaine de travail multipliée par le nombre d'années à l'emploi de l'employeur.

ARTICLE 12 Il est interdit de congédier ou d'intimider les employés ou de leur imposer une peine disciplinaire parce qu'ils ont cherché à faire respecter la présente loi.

ARTICLE 13 Constituent des infractions une dérogation à une directive que la Commission donne en vertu de l'article 9 et les dérogations à l'article 12. L'amende maximale est fixée à 5 000 \$ pour une première infraction (10 000 \$ pour une personne morale) et à 10 000 \$ pour une infraction subséquente (20 000 \$ pour une personne morale). Chaque jour où l'employeur ne respecte pas la directive de la Commission constitue une infraction distincte.

SECTION 14. Self-explanatory.

SECTION 15. A Technological Change Bureau is created to assist joint technological change committees and engage in research and public education.

SECTION 16. Self-explanatory.

ARTICLE 14 Cet article se passe d'explications.

ARTICLE 15 Le Bureau des changements technologiques est créé afin d'aider les comités paritaires des changements technologiques, de faire des recherches et d'éduquer le public.

ARTICLE 16 Cet article se passe d'explications.

Bill 110**1984****An Act respecting
Technological Change
in the Workplace**

Preamble

Whereas it is desirable to encourage employees and employers to respond to technological change, on the basis of meaningful consultation and full sharing of information, in a manner that will protect employees against adverse consequences while enhancing productivity and competitiveness;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Interpretation

1. In this Act,

R.S.O. 1980,
c. 228

(a) “Board” means the Ontario Labour Relations Board continued under the *Labour Relations Act*;

(b) “Bureau” means the Technological Change Bureau established under section 15;

(c) “committee” means a joint technological change committee established under subsection 4 (1);

R.S.O. 1980,
c. 137

(d) “employee” and “employer” have the same meanings as in the *Employment Standards Act*;

(e) “technological change” means the introduction into an employer’s business or undertaking of equipment, material or a process that is different from what was previously used in the business or undertaking and that significantly affects the terms and conditions or security of employment of any of the employer’s employees or results in a significant change in the manner in which the business or undertaking is carried on.

Application
to Crown

2. This Act applies to the Crown and to all Crown agencies.

Projet de loi 110

1984

**Loi concernant
les changements technologiques
au lieu de travail**

Attendu qu'il est souhaitable d'encourager les employés et les employeurs à réagir aux changements technologiques, grâce à des consultations profitables et à un échange complet de renseignements, d'une façon qui protégera les employés contre des répercussions défavorables tout en augmentant la productivité et la compétitivité;

Préambule

Sa Majesté, de l'avis et du consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit:

1 Les définitions qui suivent s'appliquent à la présente loi.

Définitions

«Bureau» Le Bureau des changements technologiques créé aux termes de l'article 15.

«Bureau»

«changement technologique» Introduction au lieu de travail ou à l'entreprise d'une méthode ou de matériel différents de ceux qui y étaient précédemment utilisés et qui modifient grandement les conditions d'emploi des employés ou leur sécurité ou qui entraînent des changements importants dans la façon dont le lieu de travail ou l'entreprise fonctionne.

«technological change»

«comité» Le comité paritaire des changements technologiques créé aux termes du paragraphe 4 (1).

«committee»

«Commission» La Commission des relations de travail de l'Ontario maintenue en fonctions en vertu de la *Loi sur les relations de travail*.

«Board»

L.R.O. 1980, chap. 228

«employé» et «employeur» S'entendent au sens de la *Loi sur les normes d'emploi*.

«employee employeur»
L.R.O. 1980, chap. 137

2 La présente loi s'applique à la Couronne et à tous ses organismes.

Application à la Couronne

Board may
permit
opting out

3. This Act applies despite any agreement to the contrary, unless the Board, on the joint application of the parties to a collective agreement, consents to the inclusion of a provision that this Act does not apply to the parties during the term of the collective agreement.

Right of
employees
to require
committee

4.—(1) An employer shall establish and maintain a committee,

- (a) at the written request of ten employees; or
- (b) where a trade union represents the employees, at the trade union's written request.

Composition

(2) A committee shall consist of at least four persons, half of whom shall be selected by the employer and half of whom shall be selected by the employees they are to represent or, where a trade union represents the employees, by the trade union, and shall be employees who do not exercise managerial functions.

Non-voting
trade union
represent-
atives

(3) Where a trade union represents the employees, the trade union may select not more than two persons who are not employees to be non-voting members of the committee.

Joint
chair

(4) A committee shall be chaired jointly by an employee representative and an employer representative.

Meetings

- (5) A committee shall meet,
- (a) at least once in every three month period; and
 - (b) at the call of either holder of the chair.

Entitlement
to time
from work

(6) A member of a committee selected under subsection (2) is entitled to such time from work as is necessary to attend meetings of the committee and to carry out his or her duties under subsection 7 (1), and the time so spent shall be deemed to be work time for which the member shall be paid by the employer at the regular or premium rate as may be proper.

Duty of
employer

5.—(1) Where a committee has been established under subsection 4 (1), the employer shall,

- (a) report to the committee,
 - (i) at the request of the employee representatives, and
 - (ii) at least once in every six month period,

3 La présente loi s'applique malgré une convention contraire à moins que la Commission, à la demande commune des parties à une convention collective, n'accepte l'inclusion d'une disposition portant que la présente loi ne s'applique pas aux parties pendant la durée de validité de la convention collective.

Application de la loi malgré une convention collective

4 (1) L'employeur crée un comité :

Création d'un comité

- a) à la demande écrite de dix employés;
- b) à la demande écrite du syndicat, si un syndicat représente les employés.

(2) Le comité se compose d'au moins quatre personnes, dont la moitié est nommée par l'employeur et l'autre moitié est choisie par les employés qu'elles représentent ou par le syndicat, si un syndicat représente les employés. Les membres du comité ne doivent pas occuper des fonctions directoriales.

Composition

(3) Si un syndicat représente les employés, le syndicat peut choisir au maximum deux personnes qui ne sont pas des employés à titre de membres du comité sans droit de vote.

Représentants du syndicat sans droit de vote

(4) La présidence du comité est assurée à la fois par un représentant des employés et un représentant de l'employeur.

Coprésidence

(5) Le comité se rencontre :

Réunions

- a) au moins une fois tous les trois mois;
- b) lorsque l'un des présidents convoque une réunion.

(6) Chaque membre du comité choisi conformément au paragraphe (2) a le droit de s'absenter de son travail pour assister aux réunions du comité et pour accomplir ses fonctions en application du paragraphe 7 (1). Pendant ces absences, il est réputé être demeuré à son travail et son employeur doit lui verser son taux normal de salaire ou son taux de majoration, selon le cas.

Droit de s'absenter

5 (1) Si un comité a été créé, l'employeur :

Devoirs de l'employeur

- a) lui présente un rapport :
 - (i) à la demande des représentants des employés,
 - (ii) au moins une fois tous les six mois,

on,

- (iii) the prospects for the employer's business or undertaking,
 - (iv) any changes in markets, corporate plans, technology or the environment that may affect the manner in which the business or undertaking is carried on, and
 - (v) any technological change or possible technological change that the employer is considering; and
- (b) consult with the committee on long-range strategy for the employer's business or undertaking, planning for the introduction and use of new technologies and the development and implementation of a human resources plan.

Idem

(2) Where a committee has been established under subsection 4 (1), the employer shall, as soon as he or she has made a decision to implement a technological change,

- (a) inform the committee fully of,
 - (i) the nature of the technological change,
 - (ii) its potential effect on the employers' employees, and
 - (iii) its potential contribution to the productivity and competitiveness of the employer's business or undertaking; and
- (b) consult with the committee with respect to alternative means of implementation in order to protect employees against adverse consequences while enhancing productivity and competitiveness.

Umbrella
committee

6.—(1) Where an employer's business or undertaking is carried on at more than one workplace or consists of more than one department or division,

- (a) subsection 4 (1) applies to each workplace, department or division; and
- (b) where committees have been established representing 50 per cent or more of the employer's employ-

sur :

- (iii) les prévisions en ce qui concerne son activité ou son entreprise,
 - (iv) les changements relatifs aux marchés, aux projets de l'entreprise, à la technologie ou à l'environnement qui sont susceptibles d'influer sur le fonctionnement de l'activité ou de l'entreprise,
 - (v) les changements technologiques, éventuels ou non, qu'il envisage;
- b) entretient des consultations avec le comité sur ses plans d'action à long terme concernant son activité ou son entreprise, le planification de l'introduction et de l'utilisation de nouvelles technologies, et l'élaboration et la mise en oeuvre d'un programme de ressources humaines.

(2) Si un comité a été créé en vertu du paragraphe 4 (1), l'employeur doit, dès qu'il a pris la décision de mettre en place un changement technologique :

Idem

- a) informer le comité à fond sur :
- (i) la nature de ce changement,
 - (ii) ses répercussions éventuelles sur les employés,
 - (iii) sa contribution éventuelle à la productivité et à la compétitivité de l'activité ou de l'entreprise de l'employeur;
- b) entretenir des consultations avec le comité sur d'autres façons de mettre en place le changement technologique afin de protéger les employés contre des répercussions défavorables tout en augmentant la productivité et la compétitivité.

6 (1) Si l'employeur exerce son activité ou son entreprise à plus d'un endroit ou si son activité ou son entreprise comprend plus d'une section ou d'une division :

Comité de coordination

- a) le paragraphe 4 (1) s'applique à chaque lieu de travail, section ou division;
- b) et si des comités représentant 50 pour cent ou plus

ees, the employer shall establish and maintain an umbrella committee,

- (i) at the written request of employee representatives from two or more committees, or
- (ii) at the written request of a trade union or trade unions representing employees in two or more workplaces, departments or divisions.

Idem

(2) Subsections 4 (2), (3), (4), (5) and (6) and section 5 apply to an umbrella committee.

Duties of
umbrella
committee

(3) An umbrella committee shall,

- (a) consult with committees and with the employer on technological changes and possible technological changes affecting more than one workplace, department or division; and
- (b) assist committees in co-ordinating their work.

Duty of
committee

7.—(1) Where an employer informs a joint committee of a decision to make a technological change, the committee shall develop a plan for,

- (a) informing all the employer's employees, especially those who may be directly affected by the technological change, of the decision;
- (b) implementing the technological change in a manner that will minimize displacement, reassignment, lay-offs, transfers, downgrading and deskilling of employees; and
- (c) providing employees directly affected by the technological change with,
 - (i) preferential access to alternative employment with the employer, at the same or at another workplace,
 - (ii) training for alternative employment, at the employer's expense,
 - (iii) mobility allowances,
 - (iv) opportunities for job sharing,

des employés ont été créés, l'employeur crée un comité de coordination :

- (i) à la demande écrite des représentants des employés de deux comités ou plus,
- (ii) à la demande écrite d'un ou de plusieurs syndicats qui représentent les employés dans deux lieux de travail, sections ou divisions ou plus.

(2) Les paragraphes 4 (2) à (6) et l'article 5 s'appliquent au comité de coordination. Idem

(3) Le comité de coordination :

Fonctions du
comité de
coordination

- a) entretient des consultations avec les comités et l'employeur sur les changements technologiques, éventuels ou non, qui touchent plus d'un lieu de travail, plus d'une section ou plus d'une division;
- b) aide les comités à coordonner leur travail.

7 (1) Si l'employeur informe le comité paritaire de sa décision d'introduire un changement technologique, le comité élabore un projet en vue : Fonctions du
comité

- a) d'en informer les employés, et plus particulièrement ceux qui peuvent être directement touchés par le changement technologique;
- b) de mettre en place le changement technologique d'une façon qui minimisera le déplacement, la réaffectation, la mise à pied, le transfert, le déclassement et la banalisation des employés;
- c) d'accorder aux employés directement touchés par le changement technologique :
 - (i) la priorité en ce qui concerne l'obtention d'un autre emploi auprès de l'employeur, au même lieu de travail ou à un autre,
 - (ii) des cours de formation pour un autre emploi aux frais de l'employeur,
 - (iii) des allocations de mobilité,
 - (iv) la possibilité de partager un emploi,

(v) opportunities for early retirement, and

(vi) any other assistance that the committee considers desirable to assist the employees' adjustment.

Employer
to consult
with
committee

(2) The employer shall consult with the committee in developing a plan under subsection (1), shall consider alternative means of implementation of the technological change and shall give the committee full access, on a confidential basis, to the employer's personnel records, to information about the technological change and to the technical or management staff or consultants responsible for planning or implementing the technological change.

Committee
may consult
with
employees

(3) The committee may consult with the employees directly affected by the technological change on changes in,

- (a) equipment and methods;
- (b) work practices and working hours;
- (c) training; and
- (d) products and services produced or delivered,

that may be desirable to maintain employment security and to enhance the productivity and competitiveness of the business or undertaking.

Bureau
may assist

(4) The committee may request the assistance of the Bureau in developing a plan under subsection (1).

Plan may
deal with
more than
one change

(5) A plan under subsection (1) may deal with more than one technological change.

Joint plan
by umbrella
committee

(6) The employee representatives of two or more committees established by the same employer may require an umbrella committee established under clause 6 (1) (b) to develop a joint plan on behalf of those committees, and where an umbrella committee is required to develop a joint plan, subsections (1) to (5) apply to the umbrella committee with necessary modifications.

Minimum
notice
period

8. Where a committee has been established under subsection 4 (1), the employer shall not implement a technological change before a day 180 days after the day the committee was informed under clause 5 (2) (a).

(v) la possibilité de prendre une préretraite,

(vi) l'aide que le comité juge souhaitable afin d'aider l'employé à s'ajuster.

(2) L'employeur entretient des consultations avec le comité pendant l'élaboration de ce projet, étudie d'autres façons de mettre en place le changement technologique et lui accorde toutes possibilités pour pouvoir consulter, confidentiellement, les dossiers du personnel, les renseignements sur le changement technologique, le personnel technique ou administratif, ou les experts-conseils responsables de la planification ou de la mise en place du changement technologique.

Consultations
entre
l'employeur
et le comité

(3) Le comité peut entretenir des consultations avec les employés directement touchés par le changement technologique sur les changements concernant :

Consultations
avec les
employés

- a) le matériel et les méthodes;
- b) les usages relatifs au travail et les heures de travail;
- c) la formation;
- d) les produits fabriqués ou délivrés et les services rendus,

qui peuvent être souhaitables en vue de maintenir la sécurité d'emploi et d'augmenter la productivité et la compétitivité de l'activité ou de l'entreprise.

(4) Le comité peut demander au Bureau de l'aider à élaborer ce projet.

Aide du
Bureau

(5) Ce projet peut traiter de plus d'un changement technologique.

Plus d'un
changement

(6) Les représentants des employés de deux comités ou plus constitués par le même employeur peuvent exiger qu'un comité de coordination soit créé en vertu de l'alinéa 6 (1) b) en vue d'élaborer un projet commun pour le compte de ces comités. Dans ce cas, les paragraphes (1) à (5) s'appliquent, avec les modifications nécessaires, au comité de coordination.

Projet com-
mun du
comité de
coordination

8 Si un comité a été créé en vertu du paragraphe 4 (1), l'employeur ne met pas en place un changement technologique tant que cent quatre-vingts jours ne se sont pas écoulés après le jour où le comité a été informé en vertu de l'alinéa 5 (2) a).

Préavis

Board
may order
postponement of
technological
change

9.—(1) Where the Board is satisfied that an employer,

- (a) has not complied with section 5 or subsection 7 (2) in respect of a technological change;
- (b) has substantially failed to implement a plan developed by a committee under subsection 7 (1); or
- (c) has contravened section 8,

the Board may, upon the application of ten employees or, where a trade union represents the employees, upon the trade union's application, order that the implementation of the technological change be postponed for a period not exceeding twelve months from the date of the Board's order.

Idem

(2) Where a committee has not developed a plan under subsection 7 (1) by a day 120 days after the day the committee was informed under clause 5 (2) (a), the Board may, upon the application of ten employees or, where a trade union represents the employees, upon the trade union's application, order that the implementation of the technological change be postponed for a period not exceeding twelve months from the date of the Board's order.

Collective
agreement
may be
reopened
R.S.O.1980,
c. 228

10. Notwithstanding subsection 72 (1) of the *Labour Relations Act*, a collective agreement as defined in that Act may be reopened, at the request of the trade union that represents the employees, for bargaining over the implementation of technological change, and sections 15 to 34 of that Act, both inclusive, apply to the bargaining with necessary modifications.

Severance
pay

11.—(1) Where an employee's employment is terminated and the termination is caused by the employer's implementation of a technological change, the employer shall pay severance pay to the employee in an amount equal to the amount the employee would have received at the regular rate for a regular non-overtime work week multiplied by the number of years of employment with the employer.

Application

(2) Subsection (1) applies to,

- (a) a regular full-time employee and a regular part-time employee;
- (b) an employee whose employment is terminated as a result of a strike or lock-out;

9 (1) Si la Commission est convaincue que l'employeur :Prorogation
du change-
ment

- a) n'a pas respecté l'article 5 ou le paragraphe 7 (2) en ce qui concerne un changement technologique;
- b) n'a pas, pour une grande part, mis en oeuvre le projet élaboré par un comité en vertu du paragraphe 7 (1);
- c) a enfreint l'article 8,

elle peut, à la demande de dix employés ou, si un syndicat représente les employés, à la demande du syndicat, ordonner que la mise en place du changement technologique soit différée d'au plus douze mois à partir de la date de l'ordonnance de la Commission.

(2) Si un comité n'a pas élaboré de projet en vertu du paragraphe 7 (1) au cours des cent vingt jours qui suivent la date à laquelle le comité a été informé en vertu de l'alinéa 5 (2) a), la Commission peut, à la demande de dix employés ou, si un syndicat représente les employés, à la demande du syndicat, ordonner que la mise en place du changement technologique soit différée d'au plus douze mois à partir de la date de l'ordonnance de la Commission.

Idem

10 Par dérogation au paragraphe 72 (1) de la *Loi sur les relations de travail* la convention collective au sens de cette loi peut être rouverte, à la demande du syndicat qui représente les employés, à des fins de négociation sur la mise en place du changement technologique. Les articles 15 à 34 inclusivement de cette loi s'appliquent au processus de négociation avec les modifications de circonstance.

Convention
collective
L.R.O. 1980,
chap. 228

11 (1) Si un employé est licencié à cause de la mise en place d'un changement technologique, l'employeur lui verse une indemnité de licenciement. Cette indemnité est égale au montant que l'employé aurait eu le droit de recevoir à son taux normal pour une semaine normale de travail sans heures supplémentaires multiplié par le nombre d'années à l'emploi de l'employeur.

Indemnité de
licenciement

(2) Le paragraphe (1) s'applique à :

Champ
d'application

- a) l'employé permanent à temps plein et à l'employé permanent à temps partiel;
- b) l'employé licencié en raison d'une grève ou d'un lock-out;

- (c) an employee who is temporarily absent due to illness or injury;
- (d) an employee who received or was entitled to receive notice of termination but who died before the employment was terminated or would have been terminated if notice of termination had been given;
- (e) an employee who loses his or her employment by another employee's exercise of a seniority right; and
- (f) an employee who, upon having his or her employment terminated, retires and is entitled to receive a reduced pension benefit.

Exceptions

(3) Subsection (1) does not apply to,

- (a) an employee who is entitled to severance pay under section 40a of the *Employment Standards Act*;
- (b) an employee who refuses an offer of reasonable alternative employment with the employer;
- (c) an employee who refuses to exercise seniority rights to obtain reasonable alternative employment;
- (d) an employee who refuses to waive any right to be recalled for employment;
- (e) an employee who, upon having his or her employment terminated, retires and receives an actuarially unreduced pension benefit;
- (f) an employee whose employer is engaged in the construction, alteration, maintenance or demolition of buildings, structures, roads, sewers, pipelines, mains, tunnels or other works where the employee works at the site thereof; or
- (g) an employee who is employed under an arrangement whereby the employee may elect to work or not when requested to do so.

R.S.O. 1980,
c. 137

Severance
pay in
addition
to other
payment

(4) Severance pay under this section is payable to the employee, without set-off or deduction, in addition to any payment under,

- c) l'employé temporairement absent en raison d'une maladie ou d'une blessure;
- d) l'employé qui a reçu ou qui avait le droit de recevoir un préavis de licenciement mais qui est décédé avant la date de son licenciement ou la date à laquelle il aurait été licencié si ce préavis avait été donné;
- e) l'employé licencié en raison de l'exercice par un autre employé de son droit d'ancienneté;
- f) l'employé qui, lorsqu'il est licencié, prend sa retraite et a droit à une prestation de pension réduite.

(3) Le paragraphe (1) ne s'applique pas à :

Exceptions

- a) l'employé qui a droit à une indemnité de licenciement en vertu de l'article 40 a) de la *Loi sur les normes d'emploi*;
- b) l'employé qui refuse l'offre par son employeur d'un travail équivalent;
- c) l'employé qui refuse de faire valoir ses droits d'ancienneté pour obtenir un travail équivalent;
- d) l'employé qui refuse de renoncer au droit de réintégrer son emploi;
- e) l'employé qui, lorsqu'il est licencié, prend sa retraite et touche une prestation de retraite qui n'est pas réduite d'un point de vue actuariel;
- f) l'employé dont l'employeur se livre à l'édification, la réparation, l'entretien ou la démolition de bâtiments, de constructions, de routes, d'égouts, de pipelines, de canalisations, de tunnels ou autres ouvrages si l'employé travaille sur le chantier;
- g) l'employé qui travaille aux termes d'un arrangement en vertu duquel il peut choisir de travailler ou non si la demande lui en est faite.

L.R.O. 1980,
chap. 137

(4) Une indemnité de licenciement accordée en vertu du présent article est payable à l'employé, sans compensation ou retenues, en supplément de tout autre paiement en vertu :

Indemnité de
licenciement
en
sus d'autres
paiements

(a) the *Employment Standards Act*, except severance pay under section 40a of that Act; or

(b) the contract of employment,

except for,

(c) supplementary unemployment benefits payable to and received by the employee; or

(d) payments made to the employee under a contractual severance pay scheme under which payments for loss of employment based upon length of service are provided.

Prior
employment
included

(5) Employment before the coming into force of this section shall be taken into account in calculating the years of employment of an employee to whom this section applies.

Employment
not
included

(6) A year of employment for which an employee has been paid severance pay shall be excluded in any subsequent calculation of severance pay for that employee.

Application
of
R.S.O. 1980,
c. 137

(7) Severance pay under this section shall be deemed to be wages for the purposes of the *Employment Standards Act* and sections 45 to 56 of that Act, both inclusive, apply with necessary modifications.

No
discipline,
dismissal,
etc., by
employer

12.—(1) No employer or person acting on behalf of an employer shall,

(a) dismiss or threaten to dismiss;

(b) discipline or suspend or threaten to discipline or suspend;

(c) impose any penalty upon; or

(d) intimidate or coerce,

an employee because he or she has made an application or otherwise sought to enforce rights under this Act.

- a) de la *Loi sur les normes d'emploi*, à l'exception d'une indemnité de licenciement accordée en vertu de l'article 40a de cette loi; L.R.O. 1980, chap. 137

- b) du contrat d'emploi,

à l'exception :

- c) des prestations d'assurance-chômage supplémentaires payables à l'employé et qu'il a touchées;
- d) des paiements que l'employé a touchés en vertu d'un régime contractuel d'indemnités de licenciement qui prévoit que ces indemnités sont versées en fonction de l'ancienneté.

(5) Dans le calcul des années d'emploi d'un employé visé par le présent article, il faut tenir compte de la période d'emploi écoulée avant son entrée en vigueur. Années d'emploi antérieures

(6) Il ne faut pas tenir compte d'une année d'emploi pour laquelle un employé a touché une indemnité de licenciement dans le calcul subséquent de l'indemnité de licenciement de cet employé. Cas où une année d'emploi n'est pas incluse

(7) L'indemnité de licenciement est réputée un salaire pour l'application de la *Loi sur les normes d'emploi*. Les articles 45 à 56 inclusivement de cette loi s'appliquent avec les modifications de circonstance. Champ d'application du chap. 137 des L.R.O. de 1980

12 (1) Il est interdit à l'employeur ou à la personne qui agit en son nom : Interdiction pour l'employeur de congédier un employé, etc.

- a) de congédier ou de menacer de congédier un employé;
- b) d'imposer une peine disciplinaire à un employé ou de la suspendre ou de menacer de ce faire;
- c) de prendre des sanctions à l'égard d'un employé;
- d) d'intimider ou de contraindre un employé, parce que ce dernier a fait une demande ou a cherché autrement à faire valoir les droits que lui accorde la présente loi.

s. 24 (2-8),
of
R.S.O. 1980,
c. 321
to apply

(2) Subsections 24 (2) to (8), both inclusive, of the *Occupational Health and Safety Act* apply, with necessary modifications, to a contravention of subsection (1).

Offences

13.—(1) Every person who,

(a) fails to comply with an order made by the Board under section 9; or

(b) contravenes subsection 12 (1),

is guilty of an offence and on conviction is liable to a fine, upon a first conviction, of not more than \$5,000, and upon a subsequent conviction, of not more than \$10,000.

Continued
offence

(2) Each day that an employer fails to comply with an order made by the Board under section 9 constitutes a separate offence.

Corporations

(3) Where a corporation is convicted under subsection (1), the maximum penalty that may be imposed upon the corporation is, upon a first conviction, \$10,000, and upon a subsequent conviction, \$20,000.

Directors
and officers

(4) Where a corporation is convicted under subsection (1), each director or officer of the corporation who authorized, permitted or acquiesced in the offence is a party to the offence.

Adminis-
tration

14. The Minister of Labour is responsible for the administration of this Act.

Technological
Change
Bureau

15. There shall be a bureau in the Ministry of Labour to be called the Technological Change Bureau which shall,

(a) assist committees, on their request, in developing plans and consulting with employers under section 7;

(b) conduct research into,

(i) matters relating to the employment and economic effects and human impact of technological change,

(ii) the effects of technological change on the health and safety of employees, and

(2) Les paragraphes 24 (2) à (8) inclusivement de la *Loi sur la santé et la sécurité au travail* s'appliquent, avec les modifications de circonstance, à une infraction au paragraphe (1).

Application
des
par. 24 (2) à
(8)
du chap. 321
des L.R.O.
de 1980
Infractions

13 (1) Quiconque :

- a) ne respecte pas la directive que la Commission donne en vertu de l'article 9;
- b) enfreint le paragraphe 12 (1),

est coupable d'infraction et passible, sur déclaration de culpabilité, pour une première infraction, d'une amende d'au plus 5 000 \$ et, pour une infraction subséquente, d'une amende d'au plus 10 000 \$.

(2) Chaque jour où l'employeur ne respecte pas la directive de la Commission constitue une infraction distincte.

Poursuite de
l'infraction

(3) En case de déclaration de culpabilité d'une personne morale, la peine maximale qui peut lui être imposée est, pour une première infraction, 10 000 \$ et, pour une infraction subséquente, 20 000 \$.

Personne
morale

(4) En cas de déclaration de culpabilité d'une personne morale, chaque administrateur ou dirigeant qui autorise ou permet cette infraction ou y donne son assentiment est complice.

Complicité de
l'administra-
teur ou du
dirigeant

14 Le ministre du Travail est responsable de l'application de la présente loi.

Application

15 Le ministère du Travail comprend le Bureau des changements technologiques dont la mission est la suivante :

Bureau des
changements
technolo-
giques

- a) aider les comités, à leur demande, à élaborer des projets et à entretenir des consultations avec les employeurs en vertu de l'article 7;
- b) faire des recherches sur :
 - (i) des questions reliées aux conséquences que les changements technologiques entraînent sur l'emploi, l'économie et les humains,
 - (ii) les conséquences que les changements technologiques entraînent sur la santé et la sécurité des employés,

(iii) methods of minimizing the disruptive effect of technological change on workers and improving the effectiveness of adjustment policies; and

(c) promote awareness of the issues related to technological change by public education and other means.

Regulations:
retraining
fund

16. The Lieutenant Governor in Council may make regulations,

(a) establishing a fund for the retraining of employees displaced by the implementation of technological changes;

(b) requiring employers or a class or classes of employers to pay levies into the fund established under clause (a).

Commence-
ment

17. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

18. The short title of this Act is the *Technological Change Act, 1984*.

- (iii) des méthodes pour minimiser les conséquences perturbatrices des changements technologiques sur les travailleurs et pour améliorer l'efficacité des lignes directrices relatives à l'ajustement des employés;
- c) favoriser une prise de conscience des questions liées aux changements technologiques grâce à l'éducation du public et à d'autres moyens.

16 Le lieutenant-gouverneur en conseil peut, par règlement :

Réglements :
fonds de
recyclage

- a) créer un fonds destiné au recyclage des employés déplacés par la mise en place de changements technologiques;
- b) obliger des employeurs ou une catégorie d'employeurs à verser des contributions au fonds.

17 La présente loi entre en vigueur le jour que proclame le lieutenant-gouverneur.

Entrée en
vigueur

18 Le titre abrégé de la présente loi est *Loi de 1984 sur les changements technologiques*.

Titre abrégé

Bill 111

An Act to amend certain Acts in relation to Line Fences

The Hon. C. Bennett

Minister of Municipal Affairs and Housing

1st Reading June 19th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1.—Subsections 1 and 2. The proposed definitions of “appeals division” and “referee” are complementary to the proposed changes to the appeals procedures under the Act which are set out in sections 7 and 12 of the Bill.

Subsection 3. The proposed subsection 1 (4) of the Act provides that a condominium corporation and not the unit owners shall be deemed to be the owner of land for the purposes of the Act. Any payments made by a condominium corporation as a result of the operation of the Act will be collected as common expenses.

SECTION 2. At present, fence-viewers may only be paid on a *per diem* basis. The proposed re-enactment of section 2 will enable local municipalities to fix the remuneration of the fence-viewers on a daily or hourly rate or for each attendance or reattendance.

SECTION 3. Under the proposed amendment to subsection 4 (1) of the Act, owner's desiring fence-viewers to attend at their lands will be required to give notice in the prescribed form to the municipal clerk. At present, there is no requirement that the notice be in a particular form.

SECTION 4. The proposed section 4a authorizes the municipal clerk to postpone proceedings that require the attendance or reattendance of fence-viewers if in the clerk's opinion weather conditions or ground conditions make it impracticable to attend or reattend at an arbitration or other proceeding. In addition, municipalities will be authorized to postpone proceedings during the winter months.

SECTION 5. Subsection 7 (2) of the Act sets out certain matters that must be considered by the fence-viewers in making their award. The proposed re-enactment provides that the benefit to both owners of having the boundary between their lands marked by a fence must, in addition to the other matters set out, be considered by the fence-viewers.

SECTION 6. The proposed amendment to section 8 deems a copy of an award to have been received by the intended recipient seven days after it is mailed to the person.

SECTION 7. The re-enactment of section 9 abolishes the present appeal procedure before a judge of the small claims court and replaces it with an appeal to a referee. Under the proposed sections 25a and 25b of the Act, as set out in section 12 of the Bill, the Lieutenant Governor in Council will establish one or more appeals divisions in the province. There will be one referee and, if necessary, one or more deputy referees for each appeals division. The clerk of the local municipality in which the lands that are the subject of the appeal are situate will be the clerk for an appeal.

The appeal will be heard in a room supplied by the local municipality. The local municipality will supply stenographic and other support services related to an appeal. The Ministry of Municipal Affairs and Housing will supply additional support services.

SECTIONS 8 and 9. The re-enactment of subsection 13 (8) and the amendments to subsection 14 (1) delete references to “fees” and insert references to the “cost of the proceedings”. This is consistent with the language used in clause 7 (1) (e) of the Act.

SECTION 10. The proposed section 16a will allow a municipality to recover from the parties its reasonable administrative expenses in relation to proceedings under the Act.

SECTION 11. The amendment clarifies that the fence-viewers duties in relation to unopened road allowances are not extinguished by section 24 which provides that the Act does not apply to public highways.

SECTION 12. At present, section 24 provides that the Act does not apply to public highways. The re-enactment of section 24 extends this exclusion to reserves abutting public highways. The proposed subsection 24 (2) will permit a municipality to enter agree-

ments with abutting owners to erect fences to mark the boundary between a public highway and abutting lands.

Section 25 of the Act provides that the Act does not apply in a municipality if a by-law passed under paragraph 20 of section 210 of the *Municipal Act* is in force in a municipality. The re-enactment is complementary to an amendment to that paragraph of the *Municipal Act* which is set out in section 14 of the Bill and has the effect of restricting the exemption to only those lands in a municipality that are the subject of a by-law passed under the said paragraph 20.

The proposed sections 25a and 25b are described above (see section 7).

SECTION 13. The re-enactment of section 27 of the Act sets out new regulation making powers. The new powers are complementary to the amendments set out in sections 7, 8, 9, 10 and 12 of the Bill.

SECTION 14. Paragraph 20 of section 210 of the *Municipal Act* authorizes municipalities to pass by-laws related to the apportionment and recovery of the costs of line fences. The proposed amendment will permit a municipality to designate areas in the municipality where such a by-law is to operate.

Bill 111

1984

**An Act to amend
certain Acts in relation to Line Fences**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (1) (a) of the *Line Fences Act*, being chapter 242 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(a) “appeals division” means an appeals division established under this Act;

(aa) “Minister” means the Minister of Municipal Affairs and Housing or such other member of the Executive Council to whom the administration of this Act is assigned.

(2) Subsection 1 (1) of the said Act is amended by adding thereto the following clause:

(ca) “referee” means a referee appointed under this Act.

(3) Section 1 of the said Act is amended by adding thereto the following subsection:

(4) Where a declaration has been registered under the *Condominium Act*, the condominium corporation and not the owners of the individual units shall be deemed to be the owner of the land described in the declaration for the purposes of this Act and,

Condominium
corporations
R.S.O. 1980,
c. 84

(a) any payments the condominium corporation may be responsible for under this Act, including the costs of any proceeding, is a common expense for the purposes of the *Condominium Act*; and

- (b) any payment to be made to the condominium corporation under this Act is an asset of the condominium corporation.

2. Section 2 of the said Act is repealed and the following substituted therefor:

Appointment
of
fence-viewers

2. The council of every local municipality shall by by-law appoint such number of fence-viewers as are required to carry out the provisions of this Act and the by-law shall fix the remuneration to be paid to the fence-viewers and the remuneration may be fixed on an hourly or daily rate or a rate for each attendance or reattendance by the fence-viewers.

3. Subsection 4 (1) of the said Act is amended by inserting after “notify” in the seventh line “in the prescribed form”.

4. The said Act is amended by adding thereto the following section:

Postponement
of view

4a.—(1) Where a day has been named under this Act for an arbitration or other proceeding requiring the attendance or reattendance of the fence-viewers, other than an appeal before the referee, the clerk of the municipality may postpone the arbitration or other proceeding to another day if in the clerk's opinion weather conditions or ground conditions make it impracticable for the arbitration to be held on the day originally named for the attendance or reattendance and where there is a postponement, the clerk shall forthwith,

- (a) give notice of the postponement to the persons entitled to receive notice of the original attendance or reattendance; and
- (b) give new notices in the same manner to the persons who were entitled to receive notice of the original attendance or reattendance naming a day for the arbitration or other proceeding that is not later than fifteen days after the previous day so named.

Winter
months

(2) The council of every local municipality may provide by by-law that no arbitration or other proceeding requiring the attendance or reattendance of fence-viewers shall be scheduled between the 1st day of November and the 31st day of March in the next following year or during such shorter period between those dates as may be set out in the by-law.

Idem

(3) Where a by-law has been passed under subsection (2), a proceeding requiring the attendance or reattendance of fence-

viewers during the period set out in the by-law shall be postponed until the expiry of the period.

(4) A by-law passed under subsection (2) does not apply to an appeal before a referee. Idem

5. Subsection 7 (2) of the said Act is repealed and the following substituted therefor:

(2) In making the award, the fence-viewers shall have regard to the suitability of the fence to the needs of each of the adjoining owners or the occupants of their land, as the case may be, the nature of the terrain on which the fence is, or is to be located, the benefit to both owners of having the boundary between their lands marked by a fence and the nature of the fences in use in the locality and may have regard to any other factors that they consider relevant. Matters to be considered

6. Section 8 of the said Act is amended by adding thereto the following subsection:

(3) Unless otherwise proven, the copy of the award shall be deemed to have been received by those persons mentioned in subsection (1) seven days after the mailing of the award. When award received

7.—(1) Sections 9 and 10 of the said Act are repealed and the following substituted therefor:

9.—(1) An owner dissatisfied with the award may appeal therefrom to the referee for the appeals division in which the land is situate by serving on the owner or occupant of the adjoining land, within fifteen days of receiving a copy of the award made under section 7, a notice of appeal in the prescribed form and by filing a copy of the notice together with an affidavit of service of the notice in the prescribed form with, and by paying the prescribed fees to, the clerk of the local municipality in which the land is situate within that period. Appeal

(2) A notice under subsection (1) shall be served by the owner in the same manner as a notice to an owner or occupant is served by the clerk under section 4. Service of notice

(3) Upon the filing of the copies of the notices and the affidavits and the payment of the fees mentioned in subsection (1), the clerk shall forthwith notify the referee for the appeals division of the appeal and the referee shall forthwith fix the time and place for the hearing of the appeal and advise the clerk of the time and place so fixed. Notice to referee, etc.

Notice of
hearing

(4) The clerk shall cause notice of the time and place of the appeal to be served on the person served with a notice under subsection (1) and on the owner giving notice under that subsection and a notice under this subsection shall be served in the same manner as a notice under section 4.

Powers of
referee

(5) The referee shall hear and determine the appeal and may set aside, alter or affirm the award, or correct any error therein, and may examine the parties and their witnesses on oath, and may inspect the premises and may order payment of the costs of the proceedings by either party and fix the amount of the costs.

Decision
of referee
to be final

(6) The decision of the referee is final and the award, as altered or affirmed, shall be dealt with in all respects as it would have been if it had not been appealed from.

Indemnity
for costs

(7) The referee may at any time order such sum of money to be paid by the appellant to the clerk as will be a sufficient indemnity against the costs of the appeal.

Where land
in more than
one appeals
division

(8) Notwithstanding subsections (1) and (3), when the award affects land in two or more appeals divisions, the appeal may be to the referee of the appeals division in which any part of the land is situate and in such case the documents mentioned in subsection (1) shall be filed with the clerk of the municipality in the appeals division in which the appeal is to be heard.

Copy of
decision

(9) The clerk shall send by registered mail a copy of the referee's final decision and order, if any, in the proceedings to the parties at their last known addresses and to the Minister.

Payment to
Treasurer of
Ontario

(10) The fees mentioned in subsection (1) shall be paid over by the clerk to the Treasurer of Ontario.

(2) Where, before the coming into force of this section, copies of the notices of appeal and the affidavits mentioned in subsection 9 (1) of the said Act, as that subsection read immediately before the coming into force of this section, were filed with the clerk of the small claims court, the appeal shall be heard and disposed of in accordance with the said Act as it read immediately before the coming into force of this section.

8. Subsection 13 (8) of the said Act is repealed and the following substituted therefor:

Costs

(8) Where the fence-viewers make a determination under subsection (6), they shall specify the costs of the proceedings under this section and that the costs be paid by the adjoining

owner or the other owner or that a specified portion of the costs be paid by each of them.

9. Subsection 14 (1) of the said Act is amended by striking out “fees of the fence-viewers” in the twelfth line and inserting in lieu thereof “costs of the proceedings” and by striking out “fees” in the fourteenth line and inserting in lieu thereof “costs”.

10. The said Act is further amended by adding thereto the following section:

16a.—(1) The council of every local municipality may by by-law fix its reasonable administrative fees to be paid to the municipality in relation to proceedings under this Act but, where maximum administrative fees are prescribed, the fees so fixed shall not exceed the maximum so prescribed.

Adminis-
trative
fees of
municipality

(2) Subsections 17 (2), (3) and (4) respecting the payment of fees to fence-viewers and for the collection of amounts paid on account thereof by the municipality apply with necessary modifications to the administrative fees payable to the municipality under subsection (1).

Idem

11. Subsection 18 (1) of the said Act is amended by adding at the commencement thereof “Notwithstanding section 24”.

12. Sections 24 and 25 of the said Act are repealed and the following substituted therefor:

24.—(1) Notwithstanding sections 22 and 23, this Act does not apply to any lands that constitute a public highway including lands abutting a public highway that are held as a reserve by a municipality or other public authority to separate lands abutting the reserve from the public highway.

Act does not
apply to
public
highways

(2) Subsection (1) does not apply so as to prevent the entering into of agreements under subsection 22 (3) with respect to line fences to mark the boundary between a public highway or a reserve and adjoining lands.

Agreements
under
subs. 22 (3)

25. This Act does not apply to land, where the land is in an area that is subject to a by-law passed under paragraph 20 of section 210 of the *Municipal Act*.

Effect of by-
law under
section 210,
par. 20 of
R.S.O. 1980,
c. 302

25a.—(1) The Lieutenant Governor in Council shall establish one or more appeals divisions, as the Lieutenant Governor in Council considers advisable, so that all lands in Ontario are in an appeals division.

Appeals
divisions

Appointment
of referee

(2) The Lieutenant Governor in Council shall appoint a referee for the purposes of this Act for each appeals division.

Deputy
referees

(3) The Lieutenant Governor in Council may appoint one or more deputy referees for the purposes of this Act for each appeals division and a deputy referee has the same powers and duties as a referee and shall have jurisdiction in the appeals division named in the deputy referee's appointment.

Additional
jurisdiction

(4) A referee or deputy referee may be authorized by the Lieutenant Governor in Council to have jurisdiction in more than one appeals division.

Assignment
of hearings

(5) A deputy referee shall hear such appeals as are assigned to the deputy referee by the referee for the appeals division to which the deputy referee is appointed.

Remuneration

(6) Referees and deputy referees shall be paid such remuneration as may be prescribed together with reasonable expenses.

Clerk on
hearing of
appeals

25b.—(1) The clerk of the municipality in which an appeal is filed under section 9 shall be the clerk for the purposes of an appeal under that section.

Support
services

(2) The corporation of the municipality in which an appeal is filed under section 9 shall provide a suitable room for holding the hearing and shall provide all necessary stenographic and other support services as may be required for the purposes of the appeal.

Idem

(3) Support services not related to a specific appeal shall be supplied to the referees and deputy referees by the ministry of the Minister.

13. Section 27 of the said Act is repealed and the following substituted therefor:

Regulations

27. The Lieutenant Governor in Council may make regulations,

- (a) to provide for determining how costs of line fences marking the boundary between lands situate in territory without municipal organization shall be apportioned and for providing for the manner in which any amount so apportioned shall be recovered and providing for appeals to a referee in relation to such lands;

- (b) prescribing appeals divisions, the territorial limits of the divisions and the place at which any notices to be given to the referee for any such division may be served;
- (c) prescribing fees in relation to appeals before a referee;
- (d) prescribing maximum limits of administrative fees for the purposes of section 16a;
- (e) prescribing the remuneration to be paid to referees and deputy referees;
- (f) prescribing rules of procedure related to proceedings before a referee; and
- (g) prescribing what may be included in determining the costs of proceedings under this Act.

14. Paragraph 20 of section 210 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

- (a) A by-law passed under this paragraph may be restricted in its application to such defined areas of the municipality as are set out in the by-law.

15. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

16. The short title of this Act is the *Line Fences Amendment Act, 1984*.

Short title

Bill 112

An Act respecting the Sale and Repair of Motor Vehicles in Ontario

Mr. Samis

1st Reading June 20th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to provide protection for purchasers of used cars and consumers of car repair services. The Bill requires a motor vehicle dealer to affix a notice containing useful information for potential purchasers to every used motor vehicle offered for sale. The Bill sets out a statutory warranty covering the sale of used motor vehicles. The Bill also contains provisions requiring a motor vehicle repair station operator to provide to consumers an accurate estimate of the costs of repairs. This estimate, if accepted by the consumer, becomes binding on the repair station operator. The Bill also contains a statutory guarantee for repairs. The Bill is based upon provisions of the Quebec Consumer Protection Act.

Bill 112**1984**

**An Act respecting the
Sale and Repair of Motor Vehicles in Ontario**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpretation

- (a) “motor vehicle” means an automobile, truck or other vehicle propelled or driven otherwise than by muscular power, including a motorcycle, but not including a motorized snow vehicle or a farm tractor or other self-propelled machinery primarily intended for farming or construction purposes;
- (b) “motor vehicle dealer” means a person who carries on the business of buying or selling motor vehicles, whether for his own account or the account of any other person, or who holds himself out as carrying on the business of buying or selling motor vehicles;
- (c) “motor vehicle repair station” means a premises maintained and operated for the purpose of carrying on the business of repairing motor vehicles;
- (d) “repair station operator” means a person who owns or operates a motor vehicle repair station, and includes a motor vehicle dealer.

2. A motor vehicle dealer shall affix a notice on every used motor vehicle that the dealer offers for sale and the notice shall be so affixed that it may be read entirely from outside the motor vehicle.

Notice

3. The notice shall disclose,

Content of
notice

- (a) the price at which the used motor vehicle is offered for sale;

- (b) the number of miles or kilometres registered on the odometer and the number of miles or kilometres actually travelled by the motor vehicle, if different from that indicated on the odometer;
- (c) the model year ascribed by the manufacturer and the serial number, make, model and cubic capacity of the engine;
- (d) where applicable, the fact that the motor vehicle has been used as a taxicab, a driving school vehicle, a police car, an ambulance, a leased automobile, an automobile for customers or as a demonstrator and the identity of every business or of every public agency that owned the motor vehicle or leased it on a long-term basis;
- (e) where applicable, every repair done on the used motor vehicle since it has been in the possession of the dealer;
- (f) the class of the motor vehicle, as set out in section 7;
- (g) the nature of the warranty offered by the motor vehicle dealer;
- (h) that the motor vehicle dealer shall, at the request of the consumer, provide the consumer with the name and telephone number of the most recent owner of the motor vehicle.

Notice
part of
contract

4.—(1) A copy of the notice shall be attached to the contract.

Idem

(2) All the information disclosed on the notice except the price at which the motor vehicle is offered for sale and the terms of the warranty form an integral part of the contract.

Contract

5. The contract for the purchase and sale of a motor vehicle shall indicate,

- (a) the place and date of the contract;
- (b) the name and address of the consumer and of the motor vehicle dealer;
- (c) the price of the motor vehicle;
- (d) the terms of the warranty;

- (e) all other information required to be included on a sales or purchase order by or under the *Motor Vehicle Dealers Act*. R.S.O. 1980,
c. 299

6. The sale of a used motor vehicle carries with it a warranty that the motor vehicle will remain in good working condition, Warranty

- (a) for a period of six months or 10,000 kilometres, whichever occurs first, in the case of a class A motor vehicle;
- (b) for a period of three months or 5,000 kilometres, whichever occurs first, in the case of a class B motor vehicle;
- (c) for a period of one month or 1,700 kilometres, whichever occurs first, in the case of a class C motor vehicle.

7. For the purposes of section 6,

Classes of
motor
vehicle

- (a) “class A motor vehicle” means a motor vehicle that is less than two years old and has been driven less than 40,000 kilometres;
- (b) “class B motor vehicle” means a motor vehicle that is less than three years old and has been driven less than 60,000 kilometres;
- (c) “class C motor vehicle” means a motor vehicle that is less than five years old and has been driven less than 80,000 kilometres;
- (d) “class D motor vehicle” means a motor vehicle that is not a class A, B or C motor vehicle.

8. The warranty provided for in section 6 does not apply to, Limitation
of warranty

- (a) normal maintenance service and the replacement of parts resulting from it;
- (b) interior upholstery or exterior decorative items;
- (c) damage resulting from abuse by the consumer after delivery of the motor vehicle;
- (d) any accessory designated by the regulations; and

- (e) any manufacturing defect that the motor vehicle dealer could not reasonably be expected to detect before selling the motor vehicle.

When
effective

9. The warranty referred to in section 6 takes effect upon delivery of the used motor vehicle.

Written
estimate
required

10.—(1) Before carrying out any repairs to a motor vehicle, the operator of a motor vehicle repair station shall give the consumer a written estimate of the cost of the repairs, and upon acceptance by the consumer, the estimate is binding on the operator, and the consumer shall not be charged any amount for the repairs in excess of the amount of the estimate unless the consumer agrees to pay all or part of the increased amount.

Exception

(2) An estimate is not required if the repairs are to be made without charge to the consumer.

Charge for
estimate

(3) A repair station operator shall not charge a fee for making an estimate unless the operator advises the consumer of the charge before undertaking to make the estimate.

Cost of
reassembly

11. Where, in order to make an estimate, it is necessary to disassemble all or part of a motor vehicle, the amount referred to in subsection 10 (1) shall include the cost of reassembly should the consumer decide not to have the repairs carried out and the costs of labour and of any component required to replace a part that is rendered unusable as a result of the disassembling.

Content of
estimate

12. The estimate shall indicate,

- (a) the name and address of the consumer and repair station operator;
- (b) the make, model and registration number of the motor vehicle;
- (c) the nature and total cost of the repairs to be made;
- (d) a description of the parts to be installed, if any, specifying whether each part is new, used, retooled or reconditioned; and
- (e) the date and duration of the estimate.

Repairs not
included in
estimate

13.—(1) The repair station operator shall not carry out any repairs not provided for in the accepted estimate unless the operator obtains the express agreement of the consumer.

(2) Where the operator obtains the express agreement of the consumer to make additional repairs, the operator shall indicate the terms of the agreement in the estimate and the date of the agreement. Record of
change in
estimate

14. When a repair station operator has completed the repairs, the operator shall give the consumer a bill indicating, Content of
repair bill

- (a) the name and address of the consumer and repair station operator;
- (b) the make, model and registration number of the motor vehicle;
- (c) the date of delivery of the motor vehicle to the consumer and the number of miles or kilometres registered on the odometer of the motor vehicle on that date;
- (d) the repairs carried out;
- (e) the part or parts installed, specifying whether each part is new, used, retooled or reconditioned and the price of the part;
- (f) the number of hours of labour billed, the hourly rate and the total cost of labour;
- (g) the total amount the consumer is charged under clauses (e) and (f); and
- (h) the terms of the warranty.

15. The repair station operator shall, if the consumer so requests, give to the consumer at the same time as the consumer takes delivery of the motor vehicle, the parts that have been replaced unless, Parts
replaced

- (a) the repairs are made without charge to the consumer;
- (b) the part is exchanged for a retooled or reconditioned part; or
- (c) the replaced part is subject to a warranty contract under which the motor vehicle dealer must return the part to the manufacturer or to the distributor.

Guarantee
of repairs

16.—(1) Repairs are guaranteed for three months or 5,000 kilometres, whichever occurs first, and the guarantee takes effect upon the delivery of the motor vehicle.

Damage
caused by
consumer

(2) The guarantee under subsection (1) does not apply to damage resulting from damage caused by the consumer after the repairs are completed.

Consumer's
recourse not
prejudiced

17. Acceptance of the estimate or payment by the consumer does not prejudice his recourse against a repair station operator on the grounds of absence of prior authorization for the repairs, bad workmanship or the price exceeding the price indicated in the estimate.

Posting up
of sign

18. A repair station operator who carries out motor vehicle repairs shall post in a conspicuous place in his establishment a sign informing consumers of the principal provisions of this Act.

Repair
warranty

19. In the case of a warranty provided under this Act,

- (a) the motor vehicle dealer or the manufacturer shall assume the reasonable costs of towing or breakdown service for the motor vehicle, whether the towing or breakdown service is carried out by the motor vehicle dealer, the manufacturer or a third person; or
- (b) the motor vehicle dealer or the manufacturer shall carry out the repairs to the motor vehicle and assume their cost or shall permit the consumer to have the repairs carried out by a third person and shall assume their cost.

Subsequent
purchaser

20. The motor vehicle dealer or the manufacturer is liable for the performance of a warranty provided for by this Act or of any other warranty to a consumer who is the subsequent purchaser of the motor vehicle.

Parts and
labour
included

21. The warranty provided for by this Act includes parts and labour.

Regulations

22. The Lieutenant Governor in Council may make regulations,

- (a) designating accessories for the purpose of clause 8 (d);
- (b) prescribing forms and providing for their use;

- (c) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

23. This Act comes into force on the day it receives Royal Assent. Commence-
ment

24. The short title of this Act is the *Motor Vehicle Sales and Service Protection Act, 1984*. Short title

4TH SESSION, 32ND LEGISLATURE, ONTARIO

33 ELIZABETH II, 1984

Bill 113

An Act to amend the Drainage Act

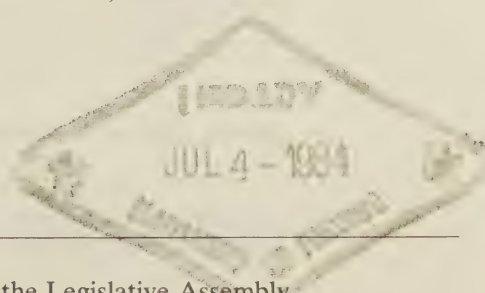
Mr. Swart

1st Reading June 22nd, 1984

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTES

SECTION 1. Self-explanatory.

SECTION 2. New subsection (2a) is intended to ensure that petitioners are aware of petition procedures and the obligations of owners under the Act.

The Government of Ontario and its agencies are not eligible to petition as owners of land.

SECTION 3. The engineer's preliminary report is made compulsory and its contents are prescribed in greater detail.

Where a majority of owners of farmland in the area to be drained petition against the drainage works, the council is not permitted to proceed and the matter is dealt with by the Ontario Drainage Tribunal.

SECTION 4. New section 80a is intended to provide an alternative to the existing petition procedure.

SECTION 5. Self-explanatory.

SECTION 6. The Minister may bring unorganized territory under the Act.

Bill 113

1984

An Act to amend the Drainage Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Drainage Act*, being chapter 126 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following paragraph:

12a. "farmland" means land that,

- i. under a by-law passed under section 34 of the *Planning Act*, 1983, or under an order made under section 46 of that Act, is zoned for agricultural use, or 1983, c. 1
- ii. is assessed under the *Assessment Act* or is actually used as farm or agricultural land or as an orchard. R.S.O. 1980, c. 31

2.—(1) Clauses 4 (1) (a) and (b) of the said Act are repealed and the following substituted therefor:

- (a) the majority in number of the owners, except the Crown in right of Ontario and any Crown agency, as shown by the last revised assessment roll of land in the area, including the owners of any roads in the area;
- (b) the owner or owners, as shown by the last revised assessment roll, of land in the area representing at least 60 per cent of the hectarage in the area that is farmland, except land owned by the Crown in right of Ontario or a Crown agency.

(2) Section 4 of the said Act is amended by adding thereto the following subsections:

(2a) The clerk shall not accept the petition of an owner or owners under clause (1) (a) or (b) for filing unless the clerk is Duty of clerk

satisfied that every owner whose signature appears on the petition,

- (a) has received a written summary of the petition procedures and the obligations of owners under this Act;
- (b) has had at least ten days to consider the summary; and
- (c) does not wish to withdraw from the petition.

.

Crown and
Crown
agency
may not be
petitioners

(6) The following persons are not eligible to be petitioners under clause (1) (a) or (b):

- 1. The Crown in right of Ontario.
- 2. A Crown agency.

3.—(1) Subsection 10 (1) of the said Act is repealed and the following substituted therefor:

Preliminary
report

(1) The council of the initiating municipality shall instruct the engineer to prepare a preliminary report containing,

- (a) a description of the area to be drained;
- (b) a sketched plan of the drainage works;
- (c) an estimate of the cost of the drainage works;
- (d) a statement of the wetlands classification, if any, of the area to be drained;
- (e) a statement of the environmental classification, if any, of the area to be drained;
- (f) the environmental appraisal, if any, or if there is no environmental appraisal, a brief statement of the anticipated effect of the drainage works on the local environment; and
- (g) the benefit cost statement, if any, or if there is no benefit cost statement, a brief statement of the anticipated benefits of the drainage works, expressed in dollars,

and the engineer shall forthwith prepare the preliminary report and file it with the council.

(2) Subsection 10 (5) of the said Act is repealed and the following substituted therefor:

(5) If at the end of the meeting the petition still complies with section 4, the council may instruct the engineer to proceed with the preparation of the report, unless a petition against the drainage works signed by,

Instruction
to engineer

- (a) the majority in number of the owners of farmland and roads, as shown by the last revised assessment roll of land in the area to be drained; or
- (b) the owner or owners, as shown by the last revised assessment roll, of farmland in the area representing at least 50 per cent of the hectareage in the area that is farmland,

is filed with the clerk of the local municipality, in which case the Tribunal shall hear the matter and the Tribunal may direct the council to take such action as the council is authorized to take under this Act and as the Tribunal considers proper.

4. The said Act is amended by adding thereto the following section:

80a.—(1) When a drainage work or watercourse is obstructed so that the free flow of water is impeded, an owner whose land is affected by the obstruction may notify the owner or occupant of the land where the obstruction is located that the obstruction is to be removed within a time at least thirty days after receipt of the notice.

Notice to
remove
obstruction

(2) If the obstruction referred to in a notice given under subsection (1) is not removed by the specified date, the person who gave the notice may request that the council of the local municipality remove the obstruction.

Request
that council
remove
obstruction

(3) A council that receives a request under subsection (2) shall promptly,

Duty of
council

- (a) cause the drainage superintendent or an engineer to investigate the matter and make a report to council, including a statement of the wetlands classification and environmental classification, if any, of the land; and

- (b) consider whether there is cause for complaint and whether it is appropriate to remove the obstruction.

Notice by
council

(4) If the council determines that there is cause for complaint and that it is appropriate to remove the obstruction, the council may give the owner or occupant of the land where the obstruction is located notice in writing to remove the obstruction within a specified time, and thereafter section 80 applies with necessary modifications.

5. Section 98 of the said Act is amended by adding thereto the following subsection:

Recommendations of
environmental
and
agricultural
organizations

(1a) In making appointments to the Tribunal under subsection (1) the Lieutenant Governor in Council shall obtain and consider the recommendations of environmental and agricultural organizations.

6. The said Act is further amended by adding thereto the following section:

Minister may
designate
unorganized
territory
Idem

123a.—(1) The Minister may designate a territory without municipal organization as a territory to which this Act applies.

(2) Where the Minister designates a territory under subsection (1), the territory shall be deemed to be a local municipality for the purposes of this Act and the Minister shall specify that,

R.S.O. 1980,
c. 252

- (a) a Local Services Board established under the *Local Services Boards Act*; or

- (b) the Minister of Northern Affairs,

shall have the powers and duties of the council of the local municipality for the purposes of this Act.

Commence-
ment

7. This Act comes into force on the day it receives Royal Assent.

Short title

8. The short title of this Act is the *Drainage Amendment Act, 1984*.

Bill 114

An Act to amend the Education Act

The Hon. B. Stephenson

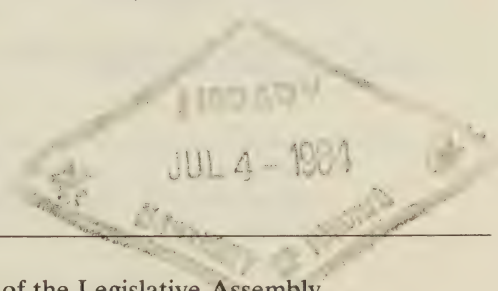
Minister of Education and Minister of Colleges and Universities

1st Reading June 25th, 1984

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTES

Sections 29 and 30 of the Act, in Part II—School Attendance, deal with three situations:

1. The parent who neglects or refuses to cause a child to attend school.
2. The person who employs a child during school hours.
3. The child who refuses to attend school or who is habitually absent from school.

In the first situation, dealing with the parent, the Act provides for a fine or a personal bond or both. The Bill increases the maximum fine from \$100 to \$1,000, and the bond from \$200 to \$1,000.

Where the court considers probation to be the proper course, the court may include a provision that the parent undergo assessment, counselling and treatment, if both the parent and the counsellor agree to such a provision.

In the second situation, dealing with the employer, the Act provides for a fine of not more than \$100. The Bill increases this to not more than \$1,000.

In both the first and second situations, the court may direct that the person be discharged rather than convicted if the court is satisfied that to do so is in the best interests of the person and is not contrary to the public interest.

In the third situation, dealing with the child, the Act provides that refusal to attend school or habitual absence from school is an offence and the child is to be treated as a juvenile delinquent under the *Juvenile Delinquents Act* (Canada).

In place of that procedure, the Bill provides that the court may make any one or more of four types of orders and, for the purpose of obtaining assistance in deciding on the type of order, the court may order an assessment of the child or the child's parent or both. The court may also require the school board to report to the court on alternative programs provided by the board that may be better suited to the educational needs of the child.

The four types of orders that may be made by the court are:

1. An order to the child to attend school.
2. An order, with the consent of the child and the child's parent, requiring the child to undergo counselling and treatment.
3. An order requiring the child to comply with specified conditions, other than counselling and treatment, to ensure that the child attends school.
4. An order requiring the school board to place the child in a program that the child's parent and the child have agreed to accept, and requiring the child to participate in the program.

The Bill provides that the court that has jurisdiction is the provincial court (family division) or the Unified Family Court.

Bill 114

1984

An Act to amend the Education Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 29 of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1982, chapter 32, section 8, is repealed and the following substituted therefor:

29. In this section and in sections 29a to 29r,

Interpretation

- (a) “child” means a child who is required by subsection 20 (1) to attend school;
- (b) “court” means a provincial court (family division) or the Unified Family Court;
- (c) “parent”, in relation to a child, means,
 - (i) both parents, where both have lawful custody of the child,
 - (ii) one parent, where that parent is solely entitled to lawful custody of the child,
 - (iii) another individual, where the individual has lawful custody of the child,
 and includes a person who has received the child into the person’s home as resident with the person or in the care of the person;
- (d) “school attendance proceeding” means a proceeding under sections 29 to 29r.

29a. A provincial court (family division) and the Unified Family Court shall be deemed to be and shall sit as provincial offences courts for the purpose of dealing with offences under sections 29 to 29r.

Jurisdiction

Commencement of proceedings **29b.** A proceeding under section 29f (liability of parent) or 29g (employment during school hours) shall be commenced only by a school attendance counsellor.

Principal's certificate as evidence **29c.** In proceedings under sections 29 to 29r, a certificate by the principal of a school as to the attendance or non-attendance of a child at the school is admissible in evidence as proof in the absence of evidence to the contrary of the facts stated therein without proof of the appointment or signature of the principal.

Age of child **29d.** In a proceeding under sections 29 to 29r, a child who appears to the court to be of compulsory school age shall, in the absence of evidence to the contrary, be deemed to be of compulsory school age.

Referral to Provincial School Attendance Counsellor **29e.**—(1) Where it appears to the court in a proceeding under sections 29 to 29r that a material issue in the proceeding is the question as to whether or not a child is excused under subsection 20 (2) from attendance at school, the court may refer the question to the Provincial School Attendance Counsellor.

Inquiry (2) The Provincial School Attendance Counsellor shall accept the referral, shall direct that an inquiry be made in accordance with section 23 in respect of the question and shall report thereon to the court.

Application of s. 23 (2) (3) Subsection 23 (2) applies with necessary modifications in respect of an inquiry under subsection (2) except that the Provincial School Attendance Counsellor shall not make an order under subsection 23 (2) directing that the child attend or be excused from attending school.

Report (4) A report under subsection (2) by the Provincial School Attendance Counsellor is proof of the contents thereof in the absence of evidence to the contrary and without proof of the appointment or signature of the Provincial School Attendance Counsellor.

Order under s. 23 (2) (5) An order under subsection 23 (2) made by the Provincial School Attendance Counsellor that a child attend school or that a child is excused from attendance at school is effective for one year after the date of the order as proof in the absence of evidence to the contrary that the child in relation to whom the order is made is required by section 20 to attend school or that the child is excused from attendance at school, as the case requires.

29f.—(1) A parent of a child who neglects or refuses to cause the child to attend school as required by section 20 is, unless the child is legally excused from attendance, guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

Liability
of parent

(2) The court may, in addition to or instead of imposing a fine, require a person convicted of an offence under subsection (1) to submit to the Treasurer of Ontario a personal bond, in a form prescribed by the court, in the penal sum of \$1,000 with one or more sureties as required, conditioned that the person shall cause the child to attend school as required by this Part, and upon breach of the condition the bond is forfeit to the Crown.

Bond for
attendance

(3) A court that directs that a person convicted of an offence under subsection (1) comply with the conditions prescribed in a probation order as provided in section 72 of the *Provincial Offences Act* may, subject to the prerequisites set out in subsection (4), prescribe the additional condition that the person undergo such assessment, counselling and treatment, or any of them, as the court specifies in the probation order.

Order for
assessment,
counselling,
treatment
R.S.O. 1980,
c. 400

(4) The prerequisites referred to in subsection (3) are:

Prerequisites

1. The person convicted must be willing to undergo the assessment, counselling and treatment, or any of them, that are to be specified in the probation order.
2. The person or persons who are to perform the assessment, counselling and treatment must consent to do so.

29g.—(1) Every person who employs during school hours a child who is required to attend school under section 20 is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

Employment
during
school hours

(2) Where a corporation is convicted of an offence under subsection (1), every director or officer of the corporation who authorizes, permits or acquiesces in the offence is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

Idem,
officer or
director of
corporation

29h.—(1) Where a person pleads guilty to or is found guilty of an offence under subsection 29f (1) (liability of parent) or section 29g (employment during school hours), the court, in the circumstance mentioned in subsection (2),

Discharge

instead of convicting the person may direct by order that the person be discharged.

Prerequisite

(2) The circumstance referred to in subsection (1) is that the court is satisfied that the discharge is in the best interests of the person and the discharge is not contrary to the public interest.

Effect of discharge

(3) Where the court by order directs under subsection (1) that the person be discharged, the person, the prosecutor or the Attorney General by way of intervention may appeal from the order in the same manner as from a conviction or dismissal and the order is a bar to any subsequent charge relating to the offence to which the discharge relates.

Order to produce child before court

29i.—(1) The court, on the application of a school attendance counsellor, may order the parent of a child to produce the child before the court at the time and place stated in the order for a hearing to determine whether or not the child is refusing to attend school or is habitually absent from school without being excused from attendance under subsection 20 (2).

Grounds for application

(2) A school attendance counsellor shall not apply to the court under subsection (1) unless,

- (a) the appropriate supervisory officer to whom the school attendance counsellor is responsible gives approval in writing for the application; and
- (b) the school attendance counsellor has reasonable and probable grounds to believe that the child is refusing to attend school or is habitually absent from school without being excused from attendance under subsection 20 (2) and is doing so without the consent of the parent of the child.

Notice

(3) An application under subsection (1) may be made without notice to the parent of the child.

Hearing

29j. Where a child is brought before the court in accordance with an order under section 29i (order to produce child before court), the court shall hold a hearing to determine whether or not the child is refusing to attend school or is habitually absent from school without being excused from attendance under subsection 20 (2).

Parties

29k.—(1) The parties to a school attendance proceeding are the applicant, the child's parent and any other person that the court by order specifies has an interest in the proceeding.

(2) A child may be represented by counsel at any stage in a school attendance proceeding. Counsel for child

(3) A child twelve years of age or more who is the subject of a school attendance proceeding is entitled to receive notice of the proceeding and to be present at the hearing, unless the court is satisfied that being present at the hearing would cause the child emotional harm and orders that the child not receive notice of the proceeding and not be permitted to be present at the hearing. Child twelve or older

(4) A child less than twelve years of age who is the subject of a school attendance proceeding is not entitled to receive notice of the proceeding or to be present at the hearing, unless the court is satisfied that the child is capable of understanding the hearing and will not suffer emotional harm by being present at the hearing and the court orders that the child receive notice of the proceeding and be permitted to be present at the hearing. Child under twelve

(5) A child who is entitled to notice of a school attendance proceeding or who is represented by counsel in a school attendance proceeding is entitled to participate in the proceeding and to appeal as if he or she were a party. Child's participation

29l.—(1) For the purposes of a school attendance proceeding, the court may inquire into and satisfy itself as to all relevant matters. Inquiry by court

(2) The court on its own initiative may summon a person to attend before the court, to testify and to produce any document or thing, and the court may issue a warrant for the arrest of the person for the purpose of compelling attendance. Compelling attendance

29m.—(1) The court may adjourn a school attendance proceeding from time to time on its own initiative or on motion by a party with the consent of all other parties to the proceeding. Adjournment

(2) The court shall not adjourn a school attendance proceeding for more than thirty days unless, Length of adjournment

(a) all the parties present consent; and

(b) the court is not aware that a party not present objects.

(3) The court shall state and record the reasons for the adjournment. Reasons for adjournment

Terms or
conditions

(4) The court may impose such terms or conditions as the court considers proper in the circumstances upon any party to a school attendance proceeding as part of an order adjourning the proceeding.

Order for
assessment

29n.—(1) Where the court is of the opinion that an assessment of the child or of the child's parent or both will assist or is likely to assist the court in disposing of the school attendance proceeding, the court may make an order for assessment.

Contents
of order

(2) In an order for assessment, the court may order that within the time specified in the order the child or a parent or both attend before and undergo an assessment by a person specified in the order.

Qualifications
of assessor

(3) The person specified in the order to perform the assessment must be qualified, in the opinion of the court, to perform developmental, educational, emotional, medical, psychological or social assessments.

Consent to
perform
assessment

(4) The person who is to perform the assessment must consent to do so before being named in the order.

Report

(5) The person who performs the assessment shall make a written report on the assessment to the court within the time specified in the order.

Time for
report

(6) The court shall not specify a period of more than thirty days for the filing of the report with the court unless the court is of the opinion that a longer period is necessary for the performance of the assessment and the preparation of the report.

Copies of
report

(7) At least seven days before the court considers the report at a hearing, the court shall provide a copy of the report to,

- (a) the person assessed, subject to subsections (8) and (9);
- (b) the child's counsel, if any;
- (c) the parent appearing at the hearing, or the parent's counsel;
- (d) any other person who, in the opinion of the court, should receive a copy of the report for the purposes of the school attendance proceeding.

(8) Where the person assessed is a child less than twelve years of age, the child shall not receive a copy of the report unless the court considers it desirable that the child receive a copy of the report.

Child under
twelve

(9) Where the person assessed is a child twelve years of age or more, the child shall receive a copy of the report, except that where the court is satisfied that disclosure of all or part of the report to the child would cause the child emotional harm, the court may withhold all or part of the report from the child.

Child twelve
or older

29o.—(1) The court at any time during the course of a school attendance proceeding by order may require the board that operates the school that the child is required to attend to report in writing to the court upon the program or programs provided by the board, whether directly or by agreement with another board, that in the opinion of the board might be better suited to the educational needs of the child than the program in which the child has been placed.

Report
by board

(2) The court shall provide a copy of the report of the board to,

Copies of
report

- (a) the parent appearing at the hearing, or the parent's counsel;
- (b) the child, subject to subsection (3);
- (c) the child's counsel, if any;
- (d) any other person who, in the opinion of the court, should receive a copy of the report for the purposes of the school attendance proceeding.

(3) Subsections 29n (8) (child under twelve) and (9) (child twelve or older) apply with necessary modifications in respect of the giving of a copy of the report of the board to the child under clause (2) (b).

Giving of
report to
child

(4) The child's parent shall consider the report of the board and shall inform the court whether or not the parent and the child are willing to accept placement of the child in a program mentioned in the report of the board.

Decision
by parent

29p. Where the court determines that the child is refusing to attend school or is habitually absent from school without being excused from attendance under subsection 20 (2), the court may dispose of the matter by making an order,

Disposition
by court

- (a) requiring the child to attend school;
- (b) with the consent of the child and the child's parent, requiring the child to undergo such counselling or treatment as the court considers appropriate;
- (c) requiring the child to comply with the conditions, other than counselling or treatment, set out in the order that the court considers reasonable and desirable in order to ensure that the child attends school; or
- (d) requiring the board that operates the school that the child is required to attend to place the child in a program that the child's parent and the child have agreed to accept, and requiring the child to participate in the program,

or any combination of them.

Contempt
of orders
of court

29q.—(1) In addition to its powers in respect of contempt, every court may punish by fine or imprisonment, or both, any wilful contempt of or resistance to its process or orders in respect of school attendance proceedings, but the fine shall not in any case exceed \$1,000 nor shall the imprisonment exceed thirty days.

Conditions of
imprisonment

(2) An order for imprisonment under subsection (1) may be made conditional upon default in the performance of a condition set out in the order.

Child under
twelve

(3) Subsection (1) does not apply in respect of a child less than twelve years of age.

Child twelve
or more
years of age

(4) Where a child twelve years of age or more is sentenced to a term of imprisonment under subsection (1),

(a) the child shall be held in a place of open custody specified by a provincial director; and

S.C. 1980-
81-82-83,
c. 110

(b) section 35 (temporary release) of the *Young Offenders Act* (Canada) applies with necessary modifications.

Interpretation

(5) In this section,

(a) "place of open custody" means a place or facility designated as a place of open custody under subsection 24 (1) of the *Young Offenders Act* (Canada);

- (b) “provincial director” means a person appointed by the Minister of Community and Social Services as a provincial director for the purposes of the *Young Offenders Act* (Canada).

S.C. 1980-81-82-83, c. 110

29r. An appeal from an order of a provincial court (family division) under sections 29i to 29q lies to the county or district court in the county or district in which the provincial court (family division) is situated.

Appeal from provincial court (family division)

2. Section 30 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 9, is repealed.

3. Where a proceeding has been commenced under section 29 of the said Act before this Act comes into force, sections 29 and 30 of the said Act continue in force in respect of the proceeding as if this Act had not come into force.

4. This Act comes into force on the day it receives Royal Assent.

Commencement

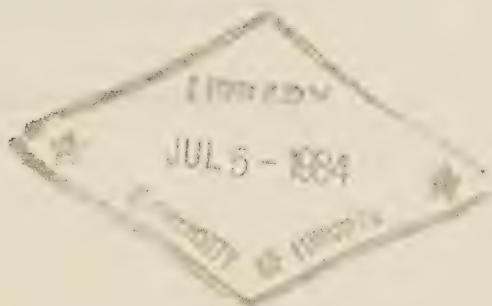
5. The short title of this Act is the *Education Amendment Act, 1984*.

Short title

Bill 115

An Act to amend the Employment Standards Act

Mr. Martel



1st Reading June 26th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to prohibit an employer from requiring an employee to work more than five consecutive days without a day of rest.

Bill 115**1984****An Act to amend the Employment Standards Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

22a. Notwithstanding anything in this Part, an employer shall not require an employee to perform work on more than five consecutive days without a day of rest.

Maximum
consecutive
days of work

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Employment Standards Amendment Act, 1984*.

Short title

Bill 116

An Act respecting Insured Services under the Ontario Health Insurance Plan

Mr. Martel



1st Reading June 26th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of this Bill is to declare that surgical procedures for breast reconstruction are insured services under the Ontario Health Insurance Plan.

Bill 116

1984

**An Act respecting Insured Services under the
Ontario Health Insurance Plan**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Notwithstanding any provision to the contrary in the *Health Insurance Act*, or the regulations made thereunder, the surgical procedures set out in the Schedule below are hereby declared to be medically necessary and constitute insured services for the purposes of the Ontario Health Insurance Plan established by that Act.

Breast
recon-
struction
declared
to be
insured
services
R.S.O. 1980,
c. 197

SCHEDULE

Breast reconstruction

- breast skin reconstruction by flaps or grafts
- breast mound creation by prosthesis and/or soft tissue
- nipple reconstruction by grafts

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Insured Health Services Act, 1984*.

Short title

4202
B

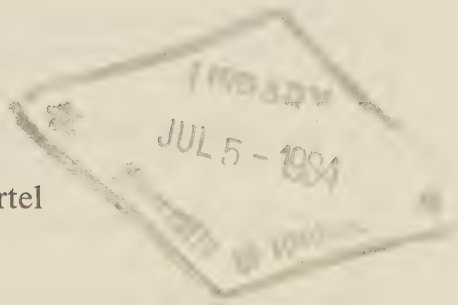
4TH SESSION, 32ND LEGISLATURE, ONTARIO

33 ELIZABETH II, 1984

Bill 117

An Act to acquire the Assets of Inco Limited

Mr. Martel



1st Reading June 26th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to vest the title and control of the assets situate in Ontario of Inco Limited in a Crown corporation, The Ontario Nickel Corporation. If compensation can not be agreed upon, provision is made for arbitration. The objects of The Ontario Nickel Corporation include the task of operating and maintaining the assets of Inco Limited so as to provide employment and other economic benefits to the Province of Ontario.

Bill 117

1984

An Act to acquire the Assets of Inco Limited

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, “Corporation” means The Ontario Nickel Corporation.

Interpre-
tation
- 2.—(1) There is hereby established, on behalf of Her Majesty in right of Ontario, a corporation without share capital under the name of “The Ontario Nickel Corporation”.

The Ontario
Nickel
Corporation
established
- (2) There shall be a Board of Directors of the Corporation consisting of such members as may be appointed by the Lieutenant Governor in Council.

Board of
Directors
- (3) The Lieutenant Governor in Council shall designate one of the directors as chairman of the Board.

Chairman
- (4) The Corporation shall have a seal which shall be adopted by resolution or by-law.

Seal
- 3.—(1) The affairs of the Corporation are under the management and control of the Board of Directors.

Management
- (2) The chairman shall preside at all meetings of the Board and, in his absence, one of the directors present thereat who is chosen so to act by the directors present shall preside and has and may exercise the powers of the chairman.

Chairman
to preside
- (3) A majority of the directors constitutes a quorum for the transaction of business at meetings of the Board.

Quorum
- (4) The Board may make by-laws regulating its proceedings and generally for the conduct and management of the affairs of the Corporation.

By-laws
4. The Board of Directors has such powers as are necessary for the purpose of carrying out its objects including the powers set out in sections 274 and 275 of the *Corporations Act*

Powers
of
Board
R.S.O. 1980,
c. 95

R.S.O. 1980,
c. 95 and section 23 of that Act, except clauses (l) (m), (p), (q), (r), (s), (t), (u) and (v), but otherwise the *Corporations Act* does not apply to the Corporation.

Objects

5. The objects of the Corporation are to,

- (a) take possession of the property, both real and personal, and the works and undertakings of Inco Limited and its subsidiaries situated in the Province of Ontario; and
- (b) create, develop and increase income, employment, and other economic benefits to the Province by operating and maintaining, or by encouraging and assisting in the establishment, expansion and continued operation and maintenance of the property, works and undertakings acquired and possessed under this Act.

Head office

6. The head office of the Corporation shall be in The Regional Municipality of Sudbury.

Assets of
Inco vest
in the
Corporation

7. All assets, including all real and personal property, works and undertakings, of Inco Limited and its subsidiaries situated in Ontario are hereby vested in The Ontario Nickel Corporation and the Corporation is hereby entitled to the possession, management and control of the said assets.

Notice of
arbitration

8.—(1) If agreement for compensation for the assets of Inco Limited vested in the Corporation by section 7 is not reached within thirty days from the date this Act comes into force, either party may serve notice of arbitration upon the other and upon the Ontario Municipal Board.

Idem

R.S.O. 1980,
c. 148

(2) The notice of arbitration referred to in subsection (1) shall be deemed to be a notice under clause 26 (b) of the *Expropriations Act* and, upon service of the notice, the practice and procedure under the *Expropriations Act* shall apply to the arbitration under this Act.

Application
of
R.S.O. 1980,
c. 148

9.—(1) Sections 29, 30, 33, 35 and 36 of the *Expropriations Act* apply to the taking of the assets referred to in section 7 in the same manner as if they were land.

Idem

(2) Compensation for the assets referred to in section 7 is to be determined in accordance with sections 13, 14, 16, 17, subsection 19 (2) and section 20 of the *Expropriations Act* in the same manner as if they were land.

(3) For the purposes of an arbitration under this Act, a reference to “expropriating authority” and to “statutory authority” in the *Expropriations Act* is a reference to the Corporation.

Interpretation

R.S.O. 1980, c. 148

10. The compensation payable as a result of this Act stands in place of the assets of Inco Limited vested in the Corporation under section 7 and any claim to or encumbrance on the assets is deemed to be a claim to or an encumbrance on the compensation payable and not a claim or encumbrance on the assets.

Compensation

11. The *Bulk Sales Act* does not apply to the transfer of assets provided for in this Act.

R.S.O. 1980, c. 52 does not apply

12. The Corporation shall, after the close of each fiscal year, deliver to the Minister of Natural Resources an annual report upon the affairs of the Corporation, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Annual report

13. This Act comes into force on the day it receives Royal Assent.

Commencement

14. The short title of this Act is the *Inco Limited Acquisition Act, 1984*.

Short title

Bill 118

An Act to amend the Legislative Assembly Act

Mr. Ruston



1st Reading June 26th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill provides for a deduction of \$100 from a member's indemnity for each day of absence over ten days in a session from the Assembly while it is sitting, unless the absence is because of illness, pregnancy and childbirth, or official business.

Bill 118**1984****An Act to amend the Legislative Assembly Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 60 of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1981, chapter 29, section 1, 1982, chapter 43, section 1 and 1983, chapter 50, section 1, is further amended by adding thereto the following subsection:

(3a) A deduction of one hundred dollars shall be made from the indemnity payable to a member under this section for every day beyond ten in a session on which the Assembly sits and on which the member is absent from the Assembly for reasons other than illness, pregnancy and childbirth, or official business.

Deduction
for absence

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Legislative Assembly Amendment Act, 1984*.

Short title



3 1761 11470965 2